

United States

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Circuit Court of Appeals

For the Ninth Circuit.

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STEVE STANWORTH and MRS. STEVE STAN-  
WORTH,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record.

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Upon Appeal from the United States District Court for  
the Territory of Alaska, Division Number One.

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FILED

AUG 21 1930

FRANK P. O'BRIEN,  
CLERK



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Circuit Court of Appeals

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#2023-B.

INDICTMENT.

Section One, Alaska Bone Dry Law—Section 21,  
Title II, National Prohibition Act.

United States of America,  
District of Alaska,  
First Division,—ss.

COUNT ONE.

In the District Court of the United States, in and  
for District of Alaska, District aforesaid, at the  
Special August Term thereof, A. D. 1929.

The Grand Jurors of the United States, im-  
paneled, sworn and charged at the term aforesaid,  
of the court aforesaid, on their oath present, that  
STEVE STANWORTH and Mrs. STEVE STAN-  
WORTH, at Juneau, Alaska, on the 25th day of  
October, in the year 1929, in the said division of  
said district, and within the jurisdiction of said  
court, did knowingly, wilfully and unlawfully have  
in their possession and under their control, about

2 *Steve Stanworth and Mrs. Steve Stanworth*

nine (9) gallons of moonshine whisky and one quart of Gordon's Dry Gin, which was then and there fit for use and intended for intoxicating beverage purposes and which possession as aforesaid was then and there in violation of Section One of the Alaska Bone Dry Law (39 Stat. 903, Chapter 53), and contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

HOWARD D. STABLER,  
United States Attorney. [1\*]

COUNT TWO.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said STEVE STANWORTH and Mrs. STEVE STANWORTH, at Juneau, Alaska, on the 25th day of October, in the year 1929, in the said division of said district, and within the jurisdiction of said court, did knowingly, wilfully and unlawfully, at and in a building numbered 95 to 95½ Front Street, keep and maintain a common nuisance, to wit, a place and building where intoxicating liquor was sold, kept and bartered in violation of the National Prohibition Act, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

HOWARD D. STABLER,  
United States Attorney. [2]

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\*Page-number appearing at the foot of page of original certified Transcript of Record.

In the District Court for the Territory of Alaska,  
Division Number One, at Juneau.

No. 2023.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

STEVE STANWORTH and MRS. STEVE STAN-  
WORTH,

Defendants.

### COURT'S INSTRUCTIONS TO THE JURY.

The COURT.—Ladies and Gentlemen of the  
Jury: I instruct you as follows: [3]

#### No. 1.

The defendants are on trial before you under  
an indictment charging two separate offenses against  
each of said defendants. The first offense charged  
is that of the possession of intoxicating liquor, and  
the second is that of keeping and maintaining a  
common nuisance.

The defendants have plead not guilty to both  
offenses, whereby it becomes incumbent upon the  
Government to prove each and every material alle-  
gation of said offenses beyond a reasonable doubt  
as against each defendant before said defendant  
can be found guilty thereunder. [4]

#### No. 2.

If you find beyond a reasonable doubt that either

#### 4 *Steve Stanworth and Mrs. Steve Stanworth*

of these defendants did on or about the 25th day of October, 1929, at Juneau, Alaska, wilfully and unlawfully possess the intoxicating liquor designated in Count One of the indictment, or any part thereof, or did aid, abett or assist the other defendant in possessing said intoxicating liquor or any part thereof, at Juneau, Alaska, then you should find such defendant guilty under Count One of the indictment. If you do not so find, then you should acquit such defendant under Count One of the indictment. [5]

#### No. 3.

Under Count Two of the indictment, if you find beyond a reasonable doubt that either of these defendants did, on or about the 25th day of October, 1929, at their premises on Front Street, Juneau, Alaska, wilfully and unlawfully keep and operate a place where intoxicating liquors were kept and possessed for intoxicating beverage purposes, or that either of said defendants did then and there aid, abett or assist the other in maintaining, keeping or operating a place where intoxicating liquors were kept and possessed for intoxicating beverage purposes, then you should find such defendant guilty under Count Two of the indictment. If you do not so find then you should acquit such defendant under Count Two of the indictment. [6]

#### No. 4.

It is not necessary for you to find that the offenses charged were committed on the precise date charged in the indictment. It is sufficient if you find that

they were committed at any time within three years prior to the finding of the indictment.

It is not necessary that the Government show the possession of the exact amount of liquor charged in the indictment. It is sufficient if any of the intoxicating liquor alleged to have been possessed is shown beyond a reasonable doubt to have been unlawfully possessed. [7]

No. 5.

You are instructed that all persons concerned in the commission of a crime, whether it be a felony or misdemeanor, and whether they directly commit the act constituting the crime or aid and abet in its commission, though not present, are principals, and are to be tried and punished as such. [8]

No. 6.

Intoxicating liquor is defined by Section One of the National Prohibition Act as including whiskey. The character of any liquor or liquid, as to whether or not it is whiskey may be shown by tests of witnesses, from their experience, taste, smell, or other recognized means of analysis. Whiskey is an intoxicating liquor fit for beverage purposes and the Government need not show its alcoholic content. [9]

No. 7.

Possession means dominion or control over an object. It may include the actual manual possession of such object or constructive possession, by which is meant having the object under one's custody or control with the present right or power to

## 6 *Steve Stanworth and Mrs. Steve Stanworth*

control or dispose of it. Ownership is not an essential element of possession, but in order to constitute possession without ownership the person charged with the possession of intoxicating liquor must know that such liquor has been left with him and must understand he is in charge or control thereof with power to dispose thereof.

As used in the indictment in this case, "wilfully" means knowingly and intentionally, as opposed to accidentally.

"Unlawfully" means without legal justification.  
[10]

### No. 8.

The indictment is a mere accusation or charge against the defendants and is not of itself any evidence of their guilt, and no juror should permit himself to be influenced against the defendants or either of them solely because an indictment *is* been returned against them. [11]

### No. 9.

The law presumes every person charged with crime to be innocent. This presumption of innocence remains with the defendants throughout the trial, and should be given effect by you until by the evidence introduced before you you are convinced of the defendants' guilt beyond a reasonable doubt. This rule as to the presumption of innocence is a humane provision of the law intended to guard against the conviction of an innocent person; but it is not intended to prevent the conviction of any

person who is in fact guilty, or to aid the guilty to escape punishment. [12]

No. 10.

Evidence of the good reputation of the defendants as law-abiding citizens has been introduced. It is the duty of the jury to consider such evidence and all the other evidence in the case, and if, upon a consideration of all the evidence, including that of good reputation of the defendants as law-abiding citizens, the jury entertain any reasonable doubt of the guilt of either defendant, it is their duty to acquit such defendant; but if, after considering all the evidence, including that of good reputation as law-abiding citizens, you have no doubt of the guilt of such defendant, it is equally your duty to convict such defendant, notwithstanding any such good reputation such defendant may have had. [13]

No. 10 $\frac{1}{2}$ .

Under the first count of the indictment herein, namely, the count charging possession of intoxicating liquor, the evidence is circumstantial.

No greater degree of certainty is required where evidence is circumstantial than where it is direct. In either case the jury must be convinced of the defendants' guilt beyond a reasonable doubt before you reach a verdict of guilty.

The law makes no distinction as to the degree of proof required between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred. In order that you may be warranted in finding the defendants guilty,

all the facts and circumstances necessary to establish the conclusion of guilt, and each of said facts, must be proved beyond a reasonable doubt, and such facts and circumstances must be consistent with each other and with the conclusion sought to be established, which is that the defendants committed the crime as charged; but if there is any other reasonable theory consistent with all the facts before you and also with the innocence of the defendants, then you must find the defendants not guilty.

To warrant a conviction upon circumstantial evidence the proved circumstances must exclude beyond a reasonable doubt every hypothesis but the single one of guilt, but if all the circumstances taken together convince your minds beyond a reasonable doubt that the defendants committed the crime as charged, then you should find them guilty.

[14]

No. 11.

The words "reasonable doubt" mean in law just what the words imply—a doubt based upon some good reason. It does not mean a mere whim or a vague, conjectural doubt, or a misgiving founded upon mere possibilities. The jurors should understand and distinguish the difference between a proof beyond a reasonable doubt and proof to the exclusion of a mere vague or possible doubt, or to an absolute certainty. The Government is not required to satisfy you of guilt to an absolute certainty, but you are required to be satisfied to a moral certainty. You are not to understand from anything that has occurred during the trial, or



from anything the Court has said to you, or says to you in these instructions, that the Court believes the defendants guilty or innocent. This is not the province of the Court. This is your province. You are responsible on your oath and on your conscience. You must not go outside of the record to find reasons for conviction; neither must you go outside of the record to hunt for reasons for a doubt. A reasonable doubt is one that must arise from the evidence or lack of evidence in the case, and it must be a substantial doubt, such as an honest, sensible, fair-minded man might with reason entertain consistently with a conscientious desire to ascertain the truth. You must use your common sense as men and women of experience, possessing some knowledge of worldly affairs, and if, after examining carefully all the facts and circumstances in the case, you can say and feel that you have a settled and abiding conviction of the guilt of either defendant, then you are satisfied of guilt beyond a reasonable doubt. If you have not such a conviction then you should acquit. [15]

## No. 12.

In determining the credit you will give to a witness, and the weight and value you will attach to his testimony, you should take into account the conduct and appearance of the witness upon the stand, the interest he has, if any, in the result of the trial; the motive he has in testifying, if any is shown; his relation to and feeling for or against any of the parties in the case; the probability or

10 *Steve Stanworth and Mrs. Steve Stanworth*

improbability of the statements of such witness; the opportunity he had to observe and be informed as to matters respecting which he gave testimony before you; and the inclination he evinced, in your judgment, to speak the truth or otherwise as to matters within his knowledge. [16]

No. 12½

I wish to make it clear to the jury in this case that you are not to consider the question of the legality or illegality of the search of the defendants' premises on October 25th. That is a matter of law to be raised as such, and determined by the Court and for the purposes of this case you are instructed that you should consider the search of said premises a legal search. [17]

No. 13.

The Code of Alaska provides that all questions of law, including the admissibility of testimony, the facts preliminary to such admission and the construction of statutes and other writings and other rules of evidence are to be decided by the Court, and all discussions of law addressed to it. Courts are not infallible, but errors in law are safeguarded by rights of appeal, and otherwise; and although the jury have the power to find a general verdict which includes questions of law as well as fact, you are not to attempt to correct by your verdict what you believe to be errors of law upon the part of the Court, and you are bound to receive as the law what is laid down by the Court as such, in order that the administration of justice may be carried

on upon well-established principles. All questions of fact other than those heretofore mentioned in these instructions must be decided by the jury, and all evidence thereon addressed to them. [18]

No. 14.

You, subject to the control of the Court in the cases specified, are the judges of the effect and value of evidence addressed to you.

However, your power of judging the effect of evidence is not arbitrary, but to be exercised with legal discretion and in subordination to the rules of evidence.

You are not bound to find in conformity with the declarations of any number of witnesses which do not produce conviction in your minds against a less number or against a presumption or other evidence satisfying your minds.

A witness wilfully false in one part of his testimony may be distrusted in others. The oral admissions of a party should be viewed with caution.

Evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and of the other to contradict, and therefore, if the weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory evidence was within the power of the party, the evidence offered should be viewed with distrust. [19]

No. 15.

You are to consider these instructions as a whole.

It is impossible to cover the entire case with a single instruction, and it is not your province to single out one particular instruction and consider it to the exclusion of all the other instructions. All are to be considered by you as a whole.

As you have been heretofore instructed, your duty is to determine the facts of the case from the evidence admitted, and to apply to these facts the law as given to you by the Court in these instructions; and the Court does not, either in these instructions or otherwise, wish to indicate how you shall find the facts or what your verdict shall be, or to influence you in the exercise of your right and duty to determine for yourselves the effect of evidence or the credibility of witnesses. [20]

#### No. 16.

When you retire to your jury-room you will elect one of your number foreman, whose duty it will be to represent you and speak for you in Court and sign the verdict that you agree upon. All twelve of you must concur in any verdict you reach.

I hand you herewith two forms of verdict. Each form contains a blank before the word "guilty" for your finding on each count. If you find a defendant not guilty you will insert the word "not" in the blank. If your finding is guilty, draw a line through the blank.

You should not be influenced in your determination of one charge by such finding as you may make in the other, except in so far as the evidence is pertinent to both charges.

After careful consideration of all the evidence submitted to you, when you arrive at a verdict, you will have your foreman sign the verdict so found, and return the same into open court in the presence of you all.

JUSTIN W. HARDING,  
District Judge.

Given at Juneau, Alaska, January 7, 1930.

Filed Jan. 8, 1930. [21]

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[Title of Court and Cause.]

VERDICT (MRS. STEVE STANWORTH).

We, the jury, duly empanelled and sworn in the above-entitled cause, find as follows:

That the defendant MRS. STEVE STANWORTH is ——— guilty as charged in Count One of the indictment.

That the defendant MRS. STEVE STANWORTH is not guilty as charged in Count Two of the indictment.

Dated at Juneau, Alaska, this 8 day of January, 1930.

JOHN A. MARTIN,  
Foreman.

Entered Court Journal No. 5, page 398.

Filed Jan. 8, 1930. [22]

[Title of Court and Cause.]

VERDICT (STEVE STANWORTH).

We, the jury, duly empanelled and sworn in the above-entitled cause, find as follows:

That the defendant STEVE STANWORTH is — guilty as charged in Count One of the indictment.

That the defendant STEVE STANWORTH IS NOT guilty as charged in Count Two of the indictment. Dated at Juneau, Alaska, this 8 day of January, 1930.

JOHN A. MARTIN,  
Foreman.

Filed Jan. 8, 1930.

Entered Court Journal No. 5, page 398. [23]

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[Title of Court and Cause.]

MOTION FOR NEW TRIAL.

Come now the defendants in the above-entitled action and move the Court that the verdict heretofore rendered on the 8th day of January, 1930, in said action be set aside and a new trial granted on the following grounds:

First. Insufficiency of the evidence to justify the verdict and that it is against law, in that there was no sufficient evidence to go to the jury on which to base a verdict of guilty.

Second. Errors at law occurring at the trial and excepted to by the defendant, as follows:

1. The Court erred in refusing to instruct the jury, upon motion of the defendant, to return a verdict of not guilty as to each of defendants, which motion was made on the ground that there was insufficient evidence to go to the jury to warrant a conviction.

2. The Court erred in overruling the objection of the defendants, to the admission of any evidence procured by the execution of a search-warrant, it not having been proven by the Government that said search-warrant was issued upon probable cause.

3. The Court erred in overruling the motion of defendants to strike out certain testimony of the witness T. L. Chidester, relative to information derived by said Chidester from certain moonshiners to the effect that the defendant Steve Stanworth made stills for the said moonshiners.

With respect to the last error assigned, the witness Chidester, having testified that the reputation of the Archway rooms and second-hand store was bad, as being a place where intoxicating [24] liquor was kept, etc., etc., was asked on cross-examination the following question:

By Mr. GRIGSBY.—Mr. Chidester, can you name any person that talked to you about the reputation of this place or its character, who wasn't talking confidentially?

Answer.—A couple of moonshiners told me that Stanworth made their still.

Whereupon defendants moved to strike out said answer as not responsive and having no tendency to prove general reputation for the keeping of intoxicating liquor.

R. C. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Jan. 14, 1930.

G. W. FOLTA,  
Asst. United States Attorney.

Filed Jan. 14, 1930. [25]

---

In the District Court for the District of Alaska,  
Division Number One, at Juneau.

No. 2023-B.

UNITED STATES OF AMERICA,

vs.

STEVE STANWORTH and MRS. STEVE  
STANWORTH.

JUDGMENT AND SENTENCE.

And now, to wit, on January 13, 1930, this matter came before the Court for imposition of sentence upon the above-named defendants, Steve Stanworth and Mrs. Steve Stanworth, upon the verdict of the jury duly impaneled and charged in this cause, by which verdict the above-named defendants, Steve Stanworth and Mrs. Steve Stanworth, were found



guilty of the crime of the possession of intoxicating liquor, in violation of Section One of the Alaska Bone Dry Act, as charged in count one of the indictment heretofore, to wit, on December 10, 1929, filed in this cause; the defendants are present in court in person, Howard D. Stabler, United States Attorney, appearing for the Government; the defendants are asked if they have any reasons to state why sentence should not now be imposed upon them, to which they offer no good or sufficient reasons, and the Court being fully advised in the premises, does hereby

#### CONSIDER, ADJUDGE AND DECREE

That it is the judgment of the Court that the said defendants, Steve Stanworth and Mrs. Steve Stanworth, are guilty of the crime of the possession of intoxicating liquor, as charged in count one of the indictment on file herein, and it is the sentence of the Court that the said defendant, Mrs. Steve Stanworth, pay a fine of One Thousand (\$1,000.00) Dollars, and that she stand committed until such fine is fully paid, not exceeding one day for each Two (\$2.00) Dollars of said fine; it is the further sentence of the Court that the said defendant, [26] Steve Stanworth, be imprisoned in the federal jail at Skagway, Alaska, or such other federal jail as the Attorney General may direct, for a term of eight months and that he stand committed until said sentence is fully executed.

Done in open court this 13th day of January, 1930.

JUSTIN W. HARDING,

District Judge.

Filed Jan. 13, 1930.

Entered Court Journal No. 5, page 423. [27]

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[Title of Court and Cause.]

BILL OF EXCEPTIONS.

BE IT REMEMBERED, that on the 4th day of January, 1930, the above-entitled action came on for trial before a jury, the Honorable Justin W. Harding, District Judge, presiding; G. W. Folta, Esq., Assistant United States District Attorney appearing on behalf of the United States; the defendants appearing in person and by George Grigsby, Esq., and Robert Hurley, Esq., their attorneys; and a jury having been duly empanelled and sworn to try said cause,

THEREUPON, the following proceedings were had and testimony taken, to wit:

TESTIMONY OF T. L. CHIDESTER, FOR THE  
GOVERNMENT.

T. L. CHIDESTER, called as a witness on behalf of the United States, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

My name is T. L. Chidester. I am a federal pro-

(Testimony of T. L. Chidester.)

hibition agent, have been such for about three years, have had about five years' experience as an officer of the law. I have known the defendants in this case, Mr. and Mrs. Steve Stanworth for about two years. On October 25th, 1929, I assisted in searching their place, called the Archway Rooms, located on Front Street in Juneau, Alaska. Deputy Marshals Feero, Brown and Garster accompanied me. We had a search-warrant.

Q. Just describe what you did under that search-warrant.

Mr. GRIGSBY.—If the Court please, we object to any further evidence as to what he did under a search-warrant, he having testified he had a search-warrant, until it has been *show* to the Court it is a valid [28] search-warrant, based on sufficient evidence.

Mr. FOLTA.—The objection comes too late. It has been tested out in the Commissioner's Court.

The COURT.—I don't think they need to show anything about the search-warrant at this time. There is no attack on the search-warrant.

Mr. GRIGSBY.—The objection is, having stated he investigated the premises under a search-warrant, we object to any further testimony until it is shown it is a valid search-warrant.

Mr. FOLTA.—Your Honor; the validity of a search-warrant, and of course the search would go with it—cannot be raised in this manner.

(Testimony of T. L. Chidester.)

The COURT.—Where was the search-warrant issued from?

Mr. FOLTA.—Juneau.

The COURT.—By whom?

Mr. FOLTA.—By Judge Boyle.

(Question by the COURT.)

The COURT.—When was it?

A. A day or so—right close to the date we made the search, I don't remember the date, around the 25th.

The COURT.—Objection overruled.

Mr. GRIGSBY.—Exception.

WITNESS.—(Continuing.) Mr. Brown and I went upstairs and I started searching the first room I came to, which was the one at the head of the stairs on the right. I was one of the rooms in the building called the Archway Rooms and Plumbing Shop. There are two stories to this building. The lower floor is a plumbing shop and junk shop and whiskey supplies. The second floor is a rooming-house. I proceeded to search the first room I came to, and I think Mr. Brown did also, and we searched all the rooms that were unlocked; and we came to some that were locked; and Mr. Stanworth protested the search. First he started to search my pockets. I asked him what he wanted and he said he was looking for whiskey. He had a copy of the search-warrant in his hand, said it wasn't any good and he wasn't going to have the place searched illegally, and several other things; and we came to

(Testimony of T. L. Chidester.)

room eleven, and it was locked, with a Yale lock, or Corbin lock. Mr. [29] Brown asked him to open it up; he wouldn't do it. He refused to open it. Mr. Brown said he would have to kick it in if he didn't, so Stanworth went in his quarters in the front end of the building and got a key ring. On this ring were a number of keys. He took one of the keys on the ring and unlocked room eleven. As soon as we went in there a very strong odor of whiskey come out of the door, and there was a jug of whiskey sitting on the wash-stand. There were two trunks in there, and inside the wash-stand was a bucket about half full of whiskey. A granite bucket that had moonshine whiskey in it. The jug on top of the wash-stand had moonshine whiskey in it. We examined the trunks and in one of them we found forty-eight pints of moonshine whiskey, in the other three pints of whiskey and one quart of gin. In a coat hanging on a nail in the room there was about half a pint of moonshine whiskey in the inside pocket. I see and recognize the trunks now before me. That is the stuff we seized there. Those empty cartons were on the bed and there were several empty bottles, rubber hose, sack, a funnel or two, sack of corks. The latter is in that little trunk. I examined the contents of those pints bottles. They contained moonshine whiskey. (Witness examines some of the bottles.) They now contain moonshine whiskey. That one quart is gin.

(Testimony of T. L. Chidester.)

Mr. FOLTA.—I will offer the trunks as Plaintiff's Exhibits 1 and 2, this jug and contents as Plaintiff's Exhibit Number 3, and the rest of the bottles containing liquor, and the bottle containing gin as Plaintiff's Exhibit 4 and the cartons and empty bottles and corks, funnel, as Plaintiff's Exhibit 5.

Mr. GRIGSBY.—We object to the offer on the ground it has not been shown that the search under which these articles were found was pursuant to a valid search-warrant.

The COURT.—Objection overruled, and exception allowed.

Mr. GRIGSBY.—At this time, we move that all the evidence of the witness be stricken out, as regards the result of the search he testified about, on the ground it has not been shown the search was made pursuant to a valid search-warrant.

The COURT.—Motion denied, exception allowed. Exhibits admitted and [30] marked.

WITNESS.—(Continuing.) I have examined the contents of bottles in each of these cartons and find them to contain moonshine whiskey and one quart of gin. The cartons outside the trunk were empty. I have seen cartons like these before. They are used to hold those pint bottles. The sections in there are made to fit the pint bottles. I don't recall exactly where I found the empty pint bottles, they were in the room. I found a bottle of whiskey besides these. I don't recall whether the corks were

(Testimony of T. L. Chidester.)

in the trunk or one of those drawers. The corks fit those bottles that are full. The hose introduced in evidence is used for siphoning liquor from kegs into bottles. One end of the hose is inserted in the keg, and suction put on the hose until gravity starts drawing the liquor off, and put the other end of the hose in the bottle until it is filled up; then squeeze the hose and fill another bottle. Bottles are filled in that way to avoid spilling. It is one of the ways of conveying a fluid from a greater to a smaller container. The bottle of gin was found in that small trunk. We emptied out the bucket of moonshine. That jug of moonshine is the same as it was at that time. It is colored with charcoal. All the bottles containing moonshine are the same as this (one being shown to witness). All corked and of the same appearance.

There hadn't been anyone living in the room for quite a time; there was a little cook-stove in there, it was rusty, stew kettle on the stove that had a little water in it, this water was rusted to the bottom of the kettle; the bed was all dirty, papers and stuff strewn around the bed; there were a few dishes in the cupboard. They were all covered with dust. Didn't look like it had been occupied for a month. There were some cooking utensils, I believe. One coat and an old pair of shoes, worn out, holes in them, useless. The coat was in fair condition. There were no other articles of clothing there, no toilet articles, no smoking articles, magazines, let-

(Testimony of T. L. Chidester.)

ters, books or towels. All those cartons were found in that one room. There was probably a big dray load of those same kind of boxes full of empty pint bottles downstairs in the storeroom. On the back stairway there was an empty trunk similar to that big one, that had the appearance of just containing whiskey, smelled [31] of whiskey; had a whiskey wrapper in it. I know where the key is that unlocked this door. It is in the marshal's office. The defendant Stanworth said he had nothing to do with the rooms; that his wife ran the rooms.

The general reputation of these premises occupied by defendants which I have described, here in Juneau, as to being a place where liquor is stored, sold, kept or otherwise disposed of contrary to law is that it has the general reputation of being a bootlegging joint and bootleggers' cache and place where stills are manufactured.

#### Cross-examination.

(By Mr. GRIGSBY.)

On this search we first went upstairs. Mr. Brown went up with me. The other two went downstairs. The first one I remember seeing was Mr. Stanworth. He was feeling my pockets. I met him in one of the rooms, the first on the right as you go upstairs, a side room. Nobody else in the room with him. The room was open. It was a bedroom. I went in there first, there was nobody in there, I was searching in the drawers of the



(Testimony of T. L. Chidester.)

dresser. I was in a stooped position when I felt somebody searching through my pockets, and I thought it was Mr. Brown looking for a flashlight and I asked what he wanted and he said he was looking for whiskey. I looked around and saw Stanworth. Mr. Brown was in the hallway. Stanworth had the search-warrant. I was engaged in searching the dresser drawer before I saw Stanworth. I did not know he was there till I felt him feeling my pockets. I did not give him a copy of the search-warrant. I gave it to Mr. Garster, who as far as I know was at that time downstairs. I knew he was. I didn't deliver any search-warrant. I knew Mr. Garster had. I did not hear him or see him. I saw him go into the second-hand store. I didn't see anybody present any search-warrant. I had knowledge it would be presented. I didn't see him hand it to him. *It* thought in my own mind he had done so. Mr. Stanworth came up to me and felt my pockets and told me that he wanted to see whether I had any whiskey on me before I went through with the search. After I saw it wasn't Mr. Brown and found what he was doing I did [32] not permit him to continue to search my pockets. He had already examined my side coat pockets only. Mr. Brown did not then come into the room. That was the first room to the right. I searched that room thoroughly. Mr. Stanworth was present part of the time. I searched it thoroughly. I don't know where Mr. Brown was at the

(Testimony of T. L. Chidester.)

time, whether in the hallway or another room. I believe he would be in another room. This room was unlocked. I don't remember the next room I searched or whether it was on the same side of the hall. There were several on each side. I don't recall each room in rotation as we searched them. I got into the other room with a key. Mr. Stanworth had it. Mr. Brown asked him to get it. He said if he didn't he would kick the door down. He said that when Mr. Stanworth refused to open the door. I don't know whether he refused to open all the doors.

When Mr. Stanworth refused to open the door I had searched the first room, that is all. I had searched the first room and then Mr. Brown asked Mr. Stanworth to get the key to the other rooms. I don't recall what Mr. Stanworth said first. The first thing he said he started in about the validity of the search-warrant. He had it in his hand at that time. He said it was no good and he wouldn't permit anybody to search his place on that. Then we said, the substance was that it was a search-warrant; if he didn't like it he could go to the District Attorney about it, and if he didn't open those doors we would break them down. Then he went into the living quarters and came out with a key ring, with a bunch of keys. Then he unlocked each door until we got to eleven and then he started in to protest again. We had been in every other room, eleven was the last room we searched. He started in

(Testimony of T. L. Chidester.)

to protest again at room eleven. Mr. Brown and myself were there. I don't know whether Bill Garster and Mr. Feero were there or not. I don't know how many rooms he had opened up to that time. I guess there are thirteen or fourteen rooms on that floor. He had not opened twelve or thirteen rooms before that. Some were not locked, others he opened, without additional protest. When we got to room eleven I don't know what he said; he just protested about the search-warrant and going into that room. He made a particular protest about [33] this particular room. He made a particular protest about all the first time. I don't know what his exact words were at room eleven, he just protested. I believe he said, "Your search-warrant isn't any good," when we were in front of room eleven. I think he raised the question of the search-warrant when we got to eleven. He raved about the search-warrant about fifteen minutes.

Q. In front of room eleven?

A. In front of all the rooms; he pranced up and down the hall, he protested all the way up, down and back. He made a particular protest about eleven. He was kicking all the time. We searched them all. He was protesting about eleven; that was the large one. He protested about all. He was running up and down the hall protesting about all.

I said he made a particular protest about eleven because he did. He did not make any more protest about eleven than about any of the rest of them.

(Testimony of T. L. Chidester.)

He unlocked eleven for us. He was protesting all the time, protested about opening eleven. He protested about every other room he opened.

I know where Stanworth got the keys. He got them from his private quarters, from one of the two front rooms. I saw him go in there and come out with them. He said he got them from his wife. I didn't see him get them. I saw her. He did not accompany me when I made the search. She didn't go through the hall with me or down to eleven. I think Garster called her after we found the whiskey and she brought the register book down. I don't know whether she brought the register book down to eleven or down to the room at the end of the hall I didn't look at the book at all. I heard a conversation between her and Mr. Garster or someone else about the contents of that book; that she had rented the room about a month prior to that date to some fisherman; I believe she said his name was Anderson; didn't know what he looked like, never saw him before; never saw him after that; couldn't describe him. She didn't describe him; she said he was a fisherman. I think she showed Mr. Garster the entry where he registered. I was there, I didn't look. These premises had the appearance of being unoccupied as living quarters. There was a small cook-stove. It was rusty. I known it from looking at it, without touching it. [34] I know the appearance of a stove that has been subjected to intense heat as to being a reddish brown color. I would say this stove was rusty,

(Testimony of T. L. Chidester.)

from looking at it. The bed was made up. Linen and blankets on it and pillows. Papers and one of those whiskey cartons. I found a coat hanging up, in fairly good condition, with a bottle of whiskey in one pocket, a half a bottle. This is the last room down the hall next the back stairway. There is a backstairs to this place. There were kitchen utensils there and dishes. A housekeeping outfit. The jug of whiskey was on the wash-stand or on a kind of a piece of furniture, about that high (indicating) and so big, square, (indicating) and it had a door in it. I don't know what you would call it. The jug was on top the wash-stand, not corked, nor paper in it. The bucket of whiskey was in the wash-stand. It had the same appearance as this other and that in the flask. The door was shut to this little cupboard. When I went into the room I could smell a very strong odor of whiskey. I don't recall whether they were newspapers or whiskey wrappers on the bed. I mean by a whiskey wrapper what you see around that bottle of gin. I happen to call that a whiskey wrapper. Not necessarily gin wrappers or quart wrappers. Scotch Whiskey, imported Scotch. I mean that which you are touching. There was some of that on the bed. Since I was there this whiskey had been in the marshal's office. I did not take it there. I went down after it was taken in. I did not see him mark it. He marked the jug and the bottles found in the trunk. I do not know it is the same trunk. I know they are the same bottles. Nobody would change them and nobody has got keys to them. I couldn't

(Testimony of T. L. Chidester.)

swear that they couldn't substitute other whiskey. They have the appearance of being the same bottles, they are the exact number. Downstairs I found some whiskey supplies, I mean by that cartons or empty bottles like that, those pieces, (indicating), that is the way they are usually shipped. I imagine they are shipped in those cartons, shipped to this town and other towns in that kind of boxes. I have seen them at different times in various places, in all the stores handling bootlegging supplies.

There are a few stores where you can buy empty pint bottles in cartons of that kind. There is no law against holding them in stock [35] or selling them. I call those whiskey supplies because they are. I have never seen them used for anything else. Not of that type I never have. Never saw any drugs or liquids put up like that. Am ready to swear a carton of those bottles constitute part of whiskey supplies. I also saw beer bottles, demi-johns and kegs, sheet copper. Sheet copper is a whiskey supply; they use it in manufacturing stills. There are a great many legitimate uses of sheet copper.

That downstairs has the reputation of being a plumbing shop, and also the reputation of a still. Well it is a plumbing shop and it is a bootleg supply shop. By junk I mean second-hand stuff. I saw those bottles. I don't remember as I noticed any new stoves.

Q. See any new beds?

(Testimony of T. L. Chidester.)

Mr. FOLTA.—Object as immaterial, and part of defendant's case.

Mr. GRIGSBY.—It shows the interest of the witness. If there is a large stock of new goods there and this man can't see anything but bootlegging supplies it shows interest.

The COURT.—Objection sustained. Exception allowed.

Q. You are very careful not to mention anything that would tend to show a legitimate business being carried on there, aren't you, Mr. Chidester.

Mr. FOLTA.—Object as argumentative.

The COURT.—Objection sustained. Exception allowed.

The WITNESS.—(Continuing.) I say that this place, the Archway Rooms and Archway Plumbing Shop and second-hand store, all together have the reputation of being a bootlegging joint and a place where *still* are manufactured and where whiskey is cached by bootleggers, in the town of Juneau and outside the town of Juneau. By general reputation I mean among the officers of the law and among everybody else. I have heard lots of people express an opinion about it. I don't care to discuss who expressed themselves. I talked to a lot of citizens of this town about its being a bootlegging joint besides officers of the law. I could name them. I don't care to divulge such information. I was specific information. I think it is general reputation when a large number of people complain of a [36] place as a bootlegging joint. There

(Testimony of T. L. Chidester.)

were a large number of people complained to me of its being a bootlegging joint. I don't care to name them.

Mr. GRIGSBY.—We insist.

The COURT.—I don't think he has to give information that comes to him confidentially.

Mr. GRIGSBY.—Any other witness is subject to cross-examination about general reputation.

The COURT.—This is specific information from different people about this place and he isn't required to give who they were. It is in the nature of confidential information.

(By Mr. GRIGSBY.)

Q. Can you, Mr. Chidester, name any person that talked to you about this place, the reputation of this place or its character who wasn't talking confidentially? A. Yes.

Q. Who? A. Oh, George Baggin.

Q. Who is George Baggin?

A. Used to be a prohibition agent.

Q. Anybody that didn't used to be a prohibition agent that didn't speak to you in confidence?

A. Mr. Keller. I think he is superintendent of schools.

Q. What did he tell you about the place?

A. Oh, he said it was a bootlegging joint. I heard him say that, to Mr. Folta.

Q. Where?

Mr. FOLTA.—Object to that.

The COURT.—Objection sustained.



(Testimony of T. L. Chidester.)

Q. Was he giving Mr. Folta some confidential information?

Mr. FOLTA.—I object; that is going *to* far.

The COURT.—Sustained.

Q. Well, anyone else?     A. Yes.

Q. Who?

A. A couple of moonshiners told me that Stanworth made their still. [37]

(Laughter by jury and audience.)

Q. A couple of moonshiners imparted the information to you that Mr. Stanworth made their still?

A. Yes, sir.

Q. Who were they?

A. I don't care to expose these moonshiners; they came in and plead guilty and showed their good faith. I don't want to tell who they were.

Q. Did they get off pretty light for telling you *the* Mr. Stanworth made their still?

Mr. FOLTA.—Object.

The COURT.—Sustained.

Mr. GRIGSBY.—Is everything this witness knows confidential?

The COURT.—That last sounds confidential.

Mr. GRIGSBY.—He has gone so far as to say that moonshiners told him this. He opened up the subject. We have a right to know who they were.

The COURT.—The National Prohibition Act specifically specifies an officer does not have to give confidential information. Information he would get from moonshiners is certainly confidential.

(Testimony of T. L. Chidester.)

Mr. GRIGSBY.—We move to strike it out as having no tendency to prove general reputation.

The COURT.—You brought it out.

Mr. GRIGSBY.—I am cross-examining on the general reputation of the place. If it is founded on confidential information which cannot be made public, then it cannot become general reputation and I move to strike it all out.

The COURT.—Motion denied. Exception allowed.

WITNESS.—(Continuing.) I don't know how many stoves Mr. Stanworth had in the Archway store.

Q. Did you notice the stoves?

Mr. FOLTA.—Object as immaterial.

The COURT.—Sustained (Witness continuing.) I wasn't looking for furniture, I was looking for whiskey. Certainly I was looking for [38] whiskey in a plumbing shop. I searched the plumbing shop after I searched the upstairs. After I found that liquor in room eleven I searched the downstairs for liquor. I don't know as anybody followed me around, I think Mr. Garster and Mr. Feero also searched it. I was looking for liquor. I don't think Mr. Stanworth was with me. Certainly I am sure that was after I searched the upstairs and already discovered these boxes. I found on the landing of the backstairs an empty trunk, which smelled of whiskey. I would not say a trunk would get the odor of whiskey from whiskey bottles being packed in it, not necessarily. There were no bottles

(Testimony of T. L. Chidester.)

in it. There was a whiskey label in it. The trunk smelled of whiskey. I didn't smell the wrapper. I could smell the odor of whiskey from the trunk, on the backstairs. There was no back door leading outside, there is a back stairway and it leads into the plumbing shop, the stairway is on the inside of the building.

Nobody unlocked any doors for me besides Mr. Stanworth. I am sure Mrs. Stanworth did not. I did not search the downstairs as thoroughly as I did the upstairs. My information was that the whole place was a bootlegging joint; you could buy a bottle of whiskey downstairs and drink it upstairs; buy a pint bottle downstairs; carry it around in your pocket or go upstairs and drink it and buy drinks upstairs. I heard that from two or three different informers you could buy drinks upstairs, over a period of over a year. That was the case on October 25th or about that time; the informers said they purchased whiskey in a downstairs apartment. It had the reputation of a place where you could buy whiskey. I don't know whether it had the reputation of being a place where you could buy drinks; I had been told by several different people, some informers, you could buy a drink there or a bottle or buy several bottles. That was not so very long before October 25th. I did not hear you could buy drinks in the plumbing shop, I heard you could buy whiskey there. I noticed what the rooms upstairs were used for. They were furnished with a bed, dresser—I believe most of them were occupied,

(Testimony of T. L. Chidester.)

and fairly well furnished; fairly clean, freshly papered; pretty well kept.

Q. It had the appearance of being a decent rooming-house, didn't it, [39] with the exception of this one room?

Mr. FOLTA.—Object as calling for a conclusion and immaterial.

Mr. GRIGSBY.—This is a nuisance charge, if the Court please, part of the *res gestae* of the search.

Mr. FOLTA.—It is a part of the defendant's case.

The COURT.—If you want to make him your own witness on that why call him. Objection sustained and exception allowed.

WITNESS. — (Continuing.) Mr. Garster was upstairs, he was in room 11, I don't know where all he went. We didn't stay together on the search. Mr. Feero was upstairs, he was in eleven. I don't know whether he was in the other rooms.

Court adjourned to Jan. 6, 1930, 10 o'clock A. M. and having reconvened, all parties present and the jury in the box, whereupon the trial proceeded as follows:

Mr. GRIGSBY.—If the Court please, before proceeding, I desire to make a motion which probably should not be made in the presence of the jury:

The COURT.—The jury may be excused.

Mr. GRIGSBY.—If the Court please, in Mr. Chidester's testimony I asked him a question if he could name any person not speaking to him in confidence, who talked to him about the general repu-

tation of the Archway rooms and store, and in the course of his replies to that question he said a couple of moonshiners told him that Mr. Stanworth made their still. I have already moved to strike out all his testimony, but I desire to move to strike out that particular answer on the ground that it is not responsive; and his later testimony revealed that information was imparted in confidence so the answer was not responsive in any sense, and of course is prejudicial. Of course the original question was, "Can you name any person that talked to you about the reputation of the place or its character, who wasn't talking in confidence." His testimony is neither directed to general reputation nor is it testimony not in confidence, because he says it was in confidence, relating to specific acts. I have the right of course to cross-examine him. On cross-examination he has no right to blurt out anything not responsive, and if the Court has [40] doubt the record will show I am speaking correctly; otherwise he could volunteer anything he wanted to; and later on the remark was made by the Court that I brought it out. I didn't bring it out. If I asked, "Who did you talk to about the general reputation of this place as a place where liquor is stored?" and he answered, "Bill Jones told me he bought whiskey there," it is not responsive. It does not pertain to general reputation, it is specific, voluntary piece of information, and prejudicial.

Mr. FOLTA.—That isn't my recollection of the way the answer was made and I think perhaps the

record should be read. While it is true a question of general reputation might show a particular class of evidence, when he cross-examines him to be specific and brings out an answer of that kind it is certainly responsive.

(Record read.)

Mr. GRIGSBY.—If the Court please, the question was if anyone talked to him who wasn't speaking in confidence. He is protected from telling who they were for the reason it was spoken in confidence. Therefore it is not responsive. Also in response to my question about general reputation he responds by saying a couple of moonshiners told him that Stanworth made their still and objects to further cross-examination for the reason it is confidential. Of course I could not protect myself until the answer was given.

Mr. FOLTA.—It will be noticed by referring to this testimony after Chidester gave the answer. "Yes, two moonshiners told me Stanworth made their still" Mr. Grigsby didn't ask to have that stricken he went further and examined him on it. After he finds the answers are unfavorable he moves they be stricken. If a party finds testimony developed by his own question is not favorable it is too late to move that it be stricken. Furthermore, that question doesn't embody what facts were stated in some question before that and to which he now refers. There wasn't anything in the question which brought that answer which called for a specific answer. I think the answer is plainly responsive and it will be remembered, too, if we go back

to this first question that Mr. Grigsby asked, as to the character of this place. An answer that a couple of stills were [41] made by the defendant in this place would certainly show the character of the place and also be responsive.

Mr. GRIGSBY.—The character of a place cannot be shown by specific acts. It can be shown by general reputation, which they undertook to show by witnesses. He testified he knew the general reputation and it was bad; and I asked, “Who did you talk to?” I said, “Did you talk to anybody about its reputation who was not talking in confidence?” and he names Mr. Baggin, disposes of him, names Keller, and then I asked, “Anyone else?” and he says, “Yes, a couple of moonshiners told me that Stanworth made their still,” and he says I followed it up and brought out something unfavorable. I said, “Who were they?” and he won’t tell, because it was confidential. If it was confidential he doesn’t have to tell me. The question was, “Did you talk to anybody who was not speaking in confidence.” That being the situation I move to strike it out. Furthermore, it relates to a specific act and not responsive to the question.

The COURT.—That question, “Anyone else?” might refer back or refer to anyone not in confidence.

Mr. GRIGSBY.—It wasn’t understood that way, if the Court please; we have already mentioned Baggin and Keller and talked about whether it was in confidence or not. “Anyone else,” has to relate back to some previous question. “Anyone else”

what? Anyone else who talked to you about the reputation of this place who wasn't talking in confidence. There is no other reasonable construction.

The COURT.—I don't feel that way. Of course the witness on the stand—how he interprets the question—

Mr. GRIGSBY.—How about the question of being responsive? Suppose I say, "Anyone else in the world talked to you about the reputation of this place?" and he answers: "A couple of moonshiners told me Stanworth made their still." He has no right to make that answer. It is not responsive. It is a specific act. I can't be blamed for bringing it out. I asked a legitimate question [42] about reputation. What somebody told him was done there is not reputation. Reputation is made by people who talk about a place, discuss it, not by people who come and tell him they bought whiskey there. The fact that two moonshiners told him they had a still made there has no bearing on reputation; it is specific information and confidential. I think for both reasons the court should strike it out. (Further argument.)

The COURT.—I will deny the motion and exception allowed.



TESTIMONY OF C. V. BROWN, FOR THE  
GOVERNMENT.

C. V. BROWN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

My name is C. V. Brown. I am a deputy marshal stationed at Petersburg, Alaska. I was in Juneau on the 25 of October last; I know the defendants in this case, Mr. and Mrs. Stanworth, and that they lived down on Front Street on the 25 of October last, in a two-story frame building. The lower floor was used for a plumbing shop and second-hand store, the upstairs for a rooming-house. The defendants lived in the front room upstairs. On that date we had a search-warrant and I went down and searched the premises with Mr. Garster, Mr. Feero and Mr. Chidester. Mr. Garster and Mr. Chidester and I went upstairs and Mr. Feero downstairs, and told Stanworth we had a search-warrant, and he come right up the steps behind us, Mr. and Mrs. Stanworth, both of them. We went up to the head of the steps and stopped until they come up. When they come up Mr. Garster served them with the search-warrant and we searched the place.

Q. Do you recognize those articles, Mr. Brown, Government's Exhibits One to Five?     A. Yes.

(Testimony of C. V. Brown.)

Mr. GRIGSBY.—We object to any further testimony as to the result of any search made there for the reason the witness has disclosed by his testimony they were acting under a search-warrant, and it hasn't been shown they were acting under a valid search-warrant. [43]

The COURT.—Objection overruled, exception allowed.

Q. Now, Mr. Brown, you say you recognize Exhibits One to Five? A. I do.

Q. Where did you first see them?

Mr. GRIGSBY.—Object on the same ground as previously stated; and if the Court will permit that objection to run to the entire testimony it will save interruptions.

The COURT.—I overrule the objection. I don't know how far it will apply to the entire testimony.

Mr. GRIGSBY.—So far as it applies to the result of this search.

The COURT.—It is satisfactory to me.

Mr. GRIGSBY.—Exception to be allowed each question relating to the result of this search. It will save interrupting continually.

Q. Where did you see these exhibits, these articles embraced in Exhibits One to Five?

Mr. GRIGSBY.—Same objection.

The COURT.—Exception allowed.

A. Archway Rooming-House. They consist of two trunks, one containing 48 pints of moonshine whiskey, the other containing 3 pints of moonshine whiskey and one quart of gin, and one gallon jug

(Testimony of C. V. Brown.)

full of moonshine whiskey and one bottle of moonshine half full of moonshine whiskey, corks, funnel, siphon hose, some cartons and wrappers, all found in room eleven. I, Mr. Chidester, Garster and Mr. Stanworth were there when they were found.

Mr. Stanworth unlocked the door, it had a Yale lock.

Q. Where did Mr. Stanworth get the key if you recall?

A. He had been opening doors along the hall on each side and when we got to that one I tried it and it was locked, he said he didn't have a key. I told him he would have to get one or else I would have to force it open. He went to his apartment and got a key and come back and opened it. When we first gave him the search-warrant he looked it over and said he didn't want us to search the place, because it was an illegal search, that the man's name didn't appear, who signed the search-warrant. [44] Mr. Garster told him the search-warrant was legal and the man's name was on the affidavit in the commissioner's office. After that he continued objecting, he didn't want the place searched. When we came to room 11 he objected to searching that. He said he did not want the room searched, didn't want the place searched, said he didn't have a key for it. I told him if he didn't open it I would force it open. He went and got the key. There was a bed in room 11 and a small wash-stand, a stove, sink, and I believe a couple of chairs; a jug of whiskey sitting on the

(Testimony of C. V. Brown.)

wash-stand, a tin pail about half full of moonshine whiskey sitting inside; trunks sitting there by the table; two large trunks and another trunk sitting back against the wall; and a half pint bottle of whiskey in a coat hanging on the wall. That jug, Plaintiff's Exhibit Three was sitting on the wash-stand, it was uncorked. The odor of liquor was very strong when we opened the door. The room did not look to me as if it had been occupied for some time. There was dust around over the stove and pieces of cartons and papers on the bed, the same kind of pieces of cartons as those there that is in the trunk. The bed didn't look like it had been occupied; linens was on there, the sheets, and pillows on top, but it hadn't been wrinkled as though it had been used; it hadn't been used; hadn't been slept on. The linen was fairly clean other than the dust on it, hadn't been used. There was a stove in the place, it didn't look like it had been used recently, there was rust on top of it, a stew-pan or saucepan on the stove. There were a few dishes in a little cupboard there, six or eight different pieces of dishes in it. They were covered with dust. The room was not swept out or cleaned out or anything. There was an old pair of shoes that didn't have any laces in them, and this old coat hanging on the wall and one shirt one of those kind of thick shirts with stripes running down on it, and an old felt black hat. I think that was all. There were no toilet articles, combs nor mail matter. I didn't see any towels nor anything that would

(Testimony of C. V. Brown.)

indicate the room had been occupied, I smelled one of those bottles, tasted it, [45] rubbed it in my hand, smelled of it. It was moonshine whiskey. On the 25 of October I had been acquainted with this building in which the defendants were operating their business for some time. The general reputation in Juneau of that place as to being a place where liquor is kept, stored, sold or otherwise disposed of contrary to law, was that of a place where liquor was kept and sold. I examined the articles of clothing found in that room for laundry marks and didn't find any. There is a back stairs and a front stairs to this building we searched. The back stairs comes down into the store, and there is a landing about halfway down. The stairs comes down into the second-hand store, I think, I am not sure. I think it is the one into the second-hand store and there is an entrance that way outside on to the roof. There is only two ways to get to the second floor, the back stairs and the front stairs. I think you would have to use the back stairway by going into the store first, I don't know. There may be another entrance. There was another trunk sitting on the landing similar to this large one, same style trunk. Mr. Chidester opened it, looked in to see what was in it. I didn't. I just see it was there. I have seen cartons of this kind before. They are generally used for whiskey flasks. That siphon hose is used to siphon whiskey out of kegs or jugs into bottles.

(Testimony of C. V. Brown.)

Cross-examination.

(By Mr. GRIGSBY.)

Q. Myself, Mr. Garster, Mr. Chidester, and Mr. Feero went there together. Mr. Feero went into the downstairs. I did not see who was downstairs when I went there, Mrs. Stanworth was right outside the door. He told her to come inside that we had a search-warrant for the place, and they went right upstairs, Garster and I and Chidester went upstairs. She was standing in front of the store when we first went there, Mr. Stanworth was inside. Mr. Feero went in and we went up the steps. Mr. Feero spoke to Mrs. Stanworth and then went inside and the rest of us [46] went upstairs and Mrs. Stanworth went into the store. We stopped at the head of the steps and didn't do anything. We didn't have but half a minute. We went together and Mr. and Mrs. Stanworth followed us up. They come up the stairway inside. Mr. Feero did not come up. He didn't come up at all. I was present at the head of the steps when he delivered the search-warrant. He served it at the head of the steps before we opened any room. Mr. Chidester was there with me. He was not with me all the time. He was before we give the search-warrant to Mr. Stanworth he was. Mr. Garster gave it to him. There wasn't any conversation with me at the head of the stairs. When he come upstairs Mr. Garster says, "I have a search-warrant for your place," and handed him a copy. That was before anything was done, before we went into

(Testimony of C. V. Brown.)

any room. Mr. Stanworth looked at the search-warrant and said he didn't want the place searched illegally and that it was an illegal search-warrant, because no name was signed to it, the name wasn't signed, it was typewritten. Mr. Garster told him the man who signed the complaint would be in the commissioner's office up at the judge's office. Then we searched the rooms. Some was open, some he unlocked. He got keys from Mrs. Stanworth, a bunch of keys. He did not make any protest about unlocking the rooms after we told him if he didn't unlock them we would force them open. Mr. Garster had the original search-warrant. He showed him the original. After that Mr. Stanworth went ahead and unlocked the doors, got a key and unlocked the doors, without further protest until he got to room 11, he protested at room 11. Some doors was open, some not. When he got to 11 he said he didn't have the key to it. I told him if he didn't unlock it I would have to force it open. Then he got the key and unlocked it. That was all the protest. He said he didn't have a key, but I noticed he went and got one, went to the apartment and got a key and came and unlocked it; he might have had it in his pocket for all I know, but when he got back he unlocked the door. He had gone along the hall to get it. I don't believe [47] Mrs. Stanworth unlocked any doors. I wouldn't say she didn't, because he got the keys from her; I don't know whether she unlocked any before he got them from her or not I don't remember. I

(Testimony of C. V. Brown.)

wouldn't say she didn't. All I saw unlocked were unlocked by Mr. Stanworth. I did not see Mr. Stanworth go into the room where Mr. Chidester was and feel his pockets. I might have been in one of the other rooms. We didn't all go together in the same room. I went in one, Mr. Chidester in one, Mr. Garster in another, Mr. Stanworth did not offer to search me. I wouldn't let him. I don't know what he done to Mr. Garster. Yes, I noticed the dust on the dishes in room 11 particularly, there was dust on them. I didn't draw my finger across them, but I could see dust when I looked in the cupboard. No, I didn't make a note of it. I took mental note of it. I examined the place with a view of determining in my own mind whether it had been occupied recently and noticed the bed had no indications of being slept in recently. I don't remember testifying in the commissioner's court on the preliminary hearing in this case. I didn't tell you at that time that I couldn't tell whether the bed showed signs of having been recently occupied. I am sure about that. I testified at the hearing some time last fall a few days after the arrest in the presence of United States Commissioner Fox, Mr. Folta, yourself, and Mr. Hurley, at the time you made a protest about the legality of the search-warrant. I did not at that time testify that I saw no indications from which I could tell whether the bed had been recently occupied or not or in words to that effect. I did not say I could not swear whether it had been slept in recently or not at that



(Testimony of C. V. Brown.)

time. I saw no laundry marks. I looked for laundry marks on the shirt in there. There were no towels. I didn't see any. I wouldn't swear there were none, but I looked and didn't see any. I looked on the sheets and pillow-cases for laundry marks. There was no such thing as pajamas in there. [48]

TESTIMONY OF W. R. GARSTER, FOR THE  
GOVERNMENT.

W. R. GARSTER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

I am a deputy United States marshal stationed at Juneau. I know the defendants Mr. and Mrs. Stanworth and where they lived October 25, 1929. It was at the Archway Rooms Front Street, Juneau. Mr. Stanworth has a plumbing shop and second-hand store, I guess there is a lot of stuff down there, and rooms upstairs which Mr. and Mrs. Stanworth occupy in the front part of the building, and furnished rooms to rent. They occupy and operate the whole building. I have known that building for more than 10 years. I believe the defendants have been in it over a year, I should think I am not sure. I know what the general reputation of that place was as a place where liquor is kept, stored, sold or otherwise disposed of contrary

(Testimony of W. R. Garster.)

to law during the time the defendants have been in it and up to the time of October 25. It was bad. I served a search-warrant for the whole premises on Mr. Stanworth on the 25 of October, 1929. In the afternoon of that day Mr. Chidester came to the marshal's office with a search-warrant from the United States Commissioner and handed it to me to be served through the marshal's office. I docketed it in my docket and proceeded down town with Mr. Brown, Mr. Feero and Mr. Chidester. On arriving at the Archway Rooms, when we walked in through the little hallway at the bottom of the stairs, I told deputy Feero to go in the store and see if Mr. Stanworth was there and come upstairs, as I had a search-warrant for the place. I went in there. Brown, Chidester, and myself went upstairs and waited at the top of the stairs. Mr. Stanworth came up immediately after us and I gave him a copy of the search-warrant. I then went into the bathroom, which is also the linen locker. He come in and sat on the bathtub and argued with me about the search-warrant; said it wasn't legal [49] and he didn't want his place illegally searched. He said the complainant's name wasn't signed on it. I said, "The complainant's name is T. L. Chidester and it is typewritten in the warrant. If you want to see his signature you will have to go *the* the commissioner's court, and you will find his signature on the complaint for the search-warrant." He then went out and Mrs. Stanworth came in and I searched the linen locker, and from there went into

(Testimony of W. R. Garster.)

the front part of the house with her, in their kitchen and bedroom, in the kitchen I found—

Mr. GRIGSBY.—We object to any evidence from this witness as to what he found as a result of this search for the reason that it has not been shown he was acting under a valid search-warrant.

The COURT.—Overruled. Exception allowed.

WITNESS.—(Continuing.) I then made a search of the place. I went from the bathroom and linen locker to the kitchen. I recognize those articles comprising Government's Exhibits One to Five. I first saw them in room 11, Archway Rooms, in the upstairs portion of the building that I have described as operated by the defendants on that date. We found there 51½ pints of whiskey, gallon jug, two pieces of hose, some corks, funnel, jug of whiskey I guess, jug of whiskey and a bucket half full of moonshine whiskey, all found in room 11, the last room on the right-hand side of the hallway upstairs. There was no test made of this liquor at that time or later only tasting and smelling. It was tasted and smelled at that time by myself. I found it to be alcoholic liquor, commonly known as moonshine whiskey. I did not taste or smell of all the bottles. (Witness picks out three bottles pours some out and smells it.) Witness continues: The contents of those bottles is alcoholic liquor commonly known as moonshine whiskey. (Witness is handed bottle of gin, Exhibit Number 3.) Witness continues: This tastes like gin; it contains gin. I have had 17 years' experience in

(Testimony of W. R. Garster.)

the tasting of liquors for alcoholic content. There is a stairway in front and a stairway leading down back from the floor of this building on which the rooms are. Room 11 is right at the top of the back stairway. When I come in there there were two trunks [50] and a gallon jug, that jug there, standing on a small table. There was no cork in it. At that time Mr. Brown pulled a bucket half full of moonshine whiskey from a little cupboard. There is another table in there, chairs, stove and a bucket of coal. On the back of the door a coat was hanging in a *close* closet with a curtain hanging over it. There was an old striped jumper, under the table was a pair of shoes without *lashes*, one of the shoes had a hole in the sole about that long (indicating); on the table was an old black felt hat. On the wall was a cupboard with two or three shelves in it and probably a dozen assorted dishes; I think there was a stew-pan or something on the stove. I couldn't say exactly, but I think it was a stew-pot or stew-pan; and the sink for washing dishes. I could not say that it had been occupied for some time; the room hadn't been swept out for one thing; dust was over the place; on top of the bed was some papers; papers and cartons; the sheets was clean and pillow-cases clean, seemingly never been slept in, in my opinion. There were no indications whether there had been a fire in the stove recently. The top of the stove was rusty. There were no toilet articles around there or any articles of clothing other than I have mentioned. I didn't see any

(Testimony of W. R. Garster.)

towels at all nor toilet articles, nor smoking articles, nor mail matter of any kind nor magazines, papers or letters. There were pieces of torn paper, I don't know what kind, and pieces of brown carton, similar to the pieces there (indicating) on the bed. This jug was in plain sight on top of the little table when I came in there. There was quite a smell of whiskey when I came to the door. There was no cover on the bucket, no cork in the jug. There was not any objection to the search of room 11 that I remember. The only thing I know, when I came out in front I heard an argument between Mr. Brown and Mr. Stanworth as to the opening of—I don't know what room it was—but it was opposite 11, and I heard Mr. Brown say, "If you don't open it I will have to force it open," when I got there there were three in the room, Mr. Stanworth, Mr. Chidester [51] and Mr. Brown. After we searched room 11 and got the trunks and found the other stuff I went down the hall to a little table by the phone where she has a register book. I looked in the book and found the name "J. Anderson" for 11. I asked her in the presence of Mr. Feero who J. Anderson was. She said she didn't know, thought he was a fisherman; he came on the first of October, paid a month's rent and secured a room. I said, "Where is he now?" She said, "I don't know, I haven't seen him." I said, "How come there is fresh linen on the bed. Seemingly it has not been slept in." She said, "I put fresh linen on every week." I told her at that time

(Testimony of W. R. Garster.)

I thought if a fisherman rented a room he would rent it to keep his clothes in; they generally do; lots of rooms in town are rented to fisherman to keep clothes in. I think that is all the conversation I had at that time. I had a conversation with her in the kitchen about what I found in the kitchen. I think that was all she said about the occupancy of this room, they hadn't seen him, didn't know him, thought he was a fisherman. After we was through searching the rooms I told him he would have to come to jail; he said he didn't see why he would have to come up; he didn't have anything to do with it; his wife was the one who had the rooms. I told him his wife's name didn't appear on the search-warrant. Either Deputy Brown or Chidester asked him for the keys of the trunk. I don't know which asked him, but one did. He said he didn't have any keys and he didn't know anything about it. I sent Deputy Feero to get a key of 11 from Mrs. Stanworth. There was a back stairway to this place leading down to the back of the store. You cannot use that stairway without going into the store. There was a trunk on the first landing of that stairway down from the upper rooms. I didn't examined it. Brown and Chidester examined the trunk and Mr. Chidester went downstairs right through—I think—to the downstairs. I was upstairs at the time, and Deputy Feero came up sometime *up* after Mr. Stanworth came up, but then Deputy Brown and Mr. Chidester took Mr. Stanworth up to jail and

(Testimony of W. R. Garster.)

Deputy Brown and I waited and put the stuff on the wagon and brought it up. I took into custody the key to room 11. I [52] have it with me. Deputy Feero brought it from Mrs. Stanworth I believe. I asked him to get the key to eleven. I put it in the lock and tried it and put a card on it. I couldn't say where it come from at the time room eleven was searched. I wasn't there when they opened eleven.

After room eleven was opened and searched, sometime afterward I sent Feero for the key, and I tried it and put a card on it when it fit. It has been in my custody in the marshal's office ever since.

(Key offered in evidence and marked Exhibit 6.)

WITNESS.—(Continuing.) All those articles embraced in Exhibits One to Five have been in the storeroom in the marshal's office ever since.

A siphon hose, such as taken here, is used for siphoning whiskey from barrels into bottles or jugs. Those are pint bottle corks and fit beer bottles just the same.

#### Cross-examination.

(By Mr. GRIGSBY.)

I served the search-warrant. Deputy Feero went into the store at my direction. I couldn't say who was in the store. We all went down there together. I didn't see anybody standing outside the store. I didn't look particularly. Didn't see anybody not that I know of. I first saw Mrs. Stanworth upstairs. I did not go to her apartment when I went

(Testimony of W. R. Garster.)

upstairs. I first saw her in the bathroom and the linen locker. She was not in the bathroom when I first saw her. I first saw her in the bathroom. I thought you meant when I went in. She was in the bathroom. I don't know where she come from. At the time she came into the bathroom the search-warrant had been served. I was searching the linen locker at that time. The search-warrant was served in the hallway at the head of the stairs. I did not tell Mr. Feero to tell Mr. Stanworth to come upstairs, nor to tell her to come upstairs. I don't think she was there when it was served. I think she come up immediately after Mr. Stanworth. The first time I seen her was when I was in the bathroom.

I don't know whether she came upstairs or from her front apartment or not. We served them with a search-warrant, and I went into this bathroom, combined locker and bathroom, and started searching, and he came in and sat on the bathtub and told me he did not want *the* [53] *searched* as the warrant was not legal. I said, "What is the matter with it" and he says the man that made the complaint isn't signed to it. I said, "The man who made the complaint is T. L. Chidester. If you want to see his signature go to the Commissioner's Court and see it on the complaint." I had the original with me. No one but Mr. Stanworth and I were present when this conversation took place. That is the first protest made to me about the search-warrant. I was there all the time. Yes, I



(Testimony of W. R. Garster.)

know it was the first protest made. I think when the protest was made Mr. Brown was out in the hall going through the rooms. Mr. Chidester was in the room nearly across the hall from where I was; when I came out Mr. Chidester was stooping over; I think in the room across from the bathroom; Mr. Stanworth asked if I had anything on me. I said, "What do you mean." He said, "Whiskey." I said, "I am not in the habit of carrying whiskey." I pulled out my flashlight and said, "I have a flashlight here." I went in and felt of Mr. Chidester, and Mr. Chidester turned around and said something, I don't know what it was. He had a conversation in which he said something about planting something in the house when they made a search, and I think Mr. Brown said he wasn't going through his. He went to lay hands on me and I pulled out the search-light and told him I had a search-light if that was what he wanted. I did not see him lay hands on Mr. Brown. I don't think I would have allowed him to search me. After this conversation I went to the kitchen with Mrs. Stanworth. We all searched then. We always do in a search. Nobody had produced any keys up to that time that I saw. I had not at that time heard any conversation about keys, I don't think. The first time I heard any conversation was I looked at the end of the hall when I came out of the front room—it was after opening a certain door. The first I heard was an argument at room eleven. Oh, they were talking in the hall; Mr.

(Testimony of W. R. Garster.)

Brown and Mr. Stanworth and Mr. Chidester, about something, but I was searching the linen locker at that time. I don't know what was said; the first I heard was when I came out of the Stanworth's quarters at the end of the hall Mr. Brown told Mr. Stanworth if he didn't open the door he would have to force it, kick it in. I don't know what room, but I [54] presume it was eleven, because when I got there they were in that room. After I heard that conversation I went down to the end of the hall and they were in there. I couldn't say who unlocked the door. After I heard the conversation at the end of the hall I went there immediately after I left Mrs. Stanworth, searched the bathroom and went down there. Nobody passed me as I went down the hall that I know of. Not Mr. Stanworth. He was there when I got there. When I heard Mr. Brown tell him he would have to open the room or he would break it in I was standing in the hall, coming from the living quarters, and went right down to eleven. When I got there Mr. Stanworth was there. He didn't pass me in the hall that I know of. There was clean sheets on the bed, clean pillow-cases. There was dust all over the bed. I didn't particularly notice that there was dust on the clean sheets or the pillow-slips. There was dust all over. I am not in the habit of talking to other officers about my testimony. The District Attorney is not the officers you mean.

Q. Haven't you all gone in there together and talked to them?

(Testimony of W. R. Garster.)

Mr. FOLTA.—Objected to as immaterial and incompetent.

The COURT.—Sustained.

Q. You didn't—after Mr. Chidester went off the stand yesterday, have any conversation with him?

A. I haven't had any conversation with Mr. Chidester since he was on the stand. I have spoken to Mr. Brown. No, I didn't compare our testimony. I never compare with anybody. I wouldn't swear there were no towels in the room. The fluid I say was whiskey was in a bucket in a small cupboard, in an enamel bucket, not a slop-jar; it had a handle on it. There was sink there, a scuttle of coal, full up to the top.

There was some rust on the top of the stove. I did not examine it for rust. I could see it was. It was reddish brown color, if that is the color of rust. The key I offered in evidence I sent Mr. Feero for. That was after the search. I don't think Mr. Feero searched anything downstairs. I don't think he searched any rooms at all; he came into eleven when I was there. During the *gret* portion of the time when I knew the reputation of the place there was a taxi stand run there [55] called the Blue Bird, run by Clifford Graham and his wife, I don't know whether they lived in the Archway Rooms or not; they had a lot of business up there. I saw them go there frequently, lots of times. I don't know where they lived at that time. They did not operate the Blue Bird Taxi on October 25th. I think Graham's taxi driver was running it for them

(Testimony of W. R. Garster.)

at that time. I don't know. I do not know where Graham was living on October 25th. I don't know where he is now. I think he is or was around Ketchikan, I don't know. I would swear I saw a sink in room eleven; in the corner by the kitchen stove.

Redirect Examination.

(By Mr. FOLTA.)

I saw Graham, Canning, and wife go into the Archway Rooms, all three.

TESTIMONY OF WM. FEERO, FOR THE  
GOVERNMENT.

WM. FEERO, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

I am a deputy United States marshal, stationed at Douglas. I know the defendants in this case. Have known them six or seven years. That was when they were living at Douglas. I know where they lived, what place they operated on the 25th of October last. It was the Archway Rooms down on Front Street, next the Arctic Pool Hall. The building is two-story, rooming-house upstairs, and downstairs Mr. Stanworth conducts a second-hand store, general store. It is on the waterfront in Juneau. I know what the general reputation of that place, that building was on October 25th last, as a

(Testimony of Wm. Feero.)

place where intoxicating liquor is kept, sold, stored or otherwise disposed of contrary to law. It was supposed to have liquor *dols* there and stored there, a place where liquor was being dispensed, being handled, contrary to law.

On October 25th I went down there with Deputy Brown, Marshal Garster and Prohibition Agent Chidester and served a search-warrant on the place. We went down there and got down in front of the building; Mrs. Stanworth was outside, so we asked her to step inside and told [56] her we had a search-warrant for the place. At that time Mr. Stanworth was coming from the back; we met inside the door there, the front door, and I believe I told him the same thing, or Mrs. Stanworth told him we had a search-warrant for the place, one of us did; both of them went upstairs, and Mr. Garster and Mr. Brown and Mr. Chidester, as we come in; they went right upstairs, and Mr. and Mrs. Stanworth followed them up. I remained downstairs, I believe, until after all the searching was done. I went upstairs later, and went back to the room eleven where Deputy Garster was, and Mrs. Stanworth came in, I believe, and Mr. Garster asked her—he was looking at the register—and asked her about who had that room and she said a fellow by the name of J. Anderson. He asked if he had been there lately and she said she didn't know, that he paid the rent on the first of the month and she didn't know whether she had seen him since or not. I believe after that Mr. Brown was trying to com-

(Testimony of Wm. Feero.)

pare a coat or something there with a pair of pants or with a coat found in the room, and Mrs. Stanworth left there, and Mr. Garster asked me to go get a key for eleven, so I went back to their living quarters and asked Mrs. Stanworth for a key to eleven, and she took a key off a ring and gave it to me. I took it back and the key seemingly was a key for eleven. I examined the interior of room eleven. I never looked at the contents of the trunk.

Q. You never looked at the contents of the trunk. Did you make any examination of any liquid there?

Mr. GRIGSBY.—Objected to for the reason it hasn't been shown this search was made pursuant to a valid search-warrant, any warrant, valid or otherwise.

The COURT.—Overruled.

Mr. GRIGSBY.—This is after the search had been concluded. The officers had gone, he had been sent for the key to room eleven. We object to any testimony on his part as to what he saw in room eleven on the ground it has not been shown his examination is the result of a search based on any warrant, valid or otherwise.

The COURT.—Overruled. Exception allowed.

The WITNESS.—(Continuing.) Deputy Garster was still there. I examined liquor [57] there at that time. It was in a glass jug, moonshine whiskey. There was a bucket there that had the smell of liquor in it. There was nothing in it at the time. I do not know what had been done with the bucket before my arrival, only by hearsay. I don't

(Testimony of Wm. Feero.)

think the room was recently occupied. There wasn't anything in there that would show it was occupied; the only thing there was trunks, liquor, coat, pair of old shoes and jumper. No fire in the place, no evidence of any fire recently. I looked at the stove, didn't examine it. Did not notice anything that would indicate whether a fire had been in it for some time. The bed was all mussed up when I was there, the bed was turned back towards the wall, springs was bare, part of it. I don't think the place had been cleaned out. I know it hadn't. The floor was not clean, didn't look like it had had a broom for some time. I have mentioned all the articles of clothing I saw there. There were no toilet articles, nor mail matter, letters, magazines or newspapers or towels. Room eleven was open when I came upstairs. Mr. Garster was in it. That is when I noticed these things. I don't know what the officers had done in there before I came. I saw the room as it was after they had been searching it. I noticed the odor of moonshine whiskey about the place.

#### Cross-examination.

(By Mr. GRIGSBY.)

I said the general reputation of this place as to being a place where liquor was kept, sold *store*, was bad. I don't know about it on October 25th. Previous to that time. I had heard it probably six or seven months before, off and on. I couldn't state how close to October 25th I had heard it. It was in, within, a month or so of that time. I couldn't

(Testimony of Wm. Feero.)

state exactly. I heard it talked about mostly by my fellow officers. I believe Shorty Graham was running the Blue Bird Taxi at the time I heard the case discussed. When I went to get the key at the direction of Mr. Garster, he was in the room. He wanted to see if she had a key for the room, I presume. I did not know they had already unlocked the door for Mr. Garster. He did not tell me he wanted the key to take up for an exhibit. I went to Mrs. Stanworth and asked for the key to room eleven and she took it off a key [58] ring she had with other keys on it, a dozen or more. I believe that when I first come up there, Mr. Garster and Mrs. Stanworth were looking at a register and I heard a conversation about J. Anderson. I looked at the register, at the name. I saw the name J. Anderson, I am not sure of what date. I believe there were other names following it. It was just an ordinary rooming-house register.

#### TESTIMONY OF ALBERT WHITE, FOR THE GOVERNMENT.

ALBERT WHITE, called as witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

My name is Albert White. I am the United States marshal for this division. I know the defendants, Mr. and Mrs. Steve Stanworth when I see



(Testimony of Albert White.)

them. I know where they lived on October 25th last. It was in the Arcade Rooms, Archway or Arcade, down there, second-hand store underneath, right next the restaurant. It is a two-story building with rooms on the second floor. The general reputation of that place, that building was on October 25th last, that of selling liquor down there.

Cross-examination.

(By Mr. GRIGSBY.)

I was the United States marshal on October 25th last.

## TESTIMONY OF W. K. KELLER, FOR THE GOVERNMENT.

W. K. KELLER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

My name is William K. Keller. I am superintendent of schools at Juneau. Have been such for six and a fraction years. I know Mrs. Stanworth, defendant, but do not recognize Mr. Stanworth. I know where they lived or operated last October. It was the Archway Plumbing Shop. It is a two-story building as I remember it, located near the Arcade Cafe, and the downstairs is a plumbing shop. I assume the Archway Rooms are upstairs. The general reputation of those premises which I

(Testimony of W. K. Keller.)

have just described, in Juneau, was on the 25th day of October, as being a place where intoxicating liquor is stored, sold [59] or handled contrary to law, was bad.

Cross-examination.

(By Mr. GRIGSBY.)

I know what the general reputation of that place was in that respect. I know what is meant by general reputation. I had heard the place discussed during the year. I don't recall any specific cases, any particular persons who talked to me about it. I am not unfriendly with Mrs. Stanworth. Never had any trouble with the Stanworths that I know of. I do not know that they filed charges against me. I do not know that Mrs. Stanworth had gone to the School Board and complained about me punishing her boy. I never heard of it. She talked with me about it but not about filing charges. She came to see me and complained. I never heard anything further about it. Never heard it mentioned by a member of the school board or by others, nor *hear* that the matter was taken up by the school board. Never heard of it, nor by anybody on their behalf.

TESTIMONY OF WINN GODDARD, FOR THE  
GOVERNMENT.

WINN GODDARD, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. FOLTA.)

My name is Erwin M. Goddard. I am assistant to the executive officer of the Alaska Game Commission. I am acquainted with the place where the defendants, Mr. and Mrs. Stanworth have been living last October and previous to that time. It is a building located next to the Arcade Cafe. I have never been in the building, but as I recall it has a plumbing shop or hardware store downstairs next the place known as the Imperial Pool Hall, on Front Street.

It is a two-story frame building; on the upper floor I believe they have rooms. I know the general reputation of that place on October 25th last, and preceding that time, as being a place where intoxicating liquor is stored, sold or handled contrary to law. I believe it was bad.

Cross-examination.

(By Mr. GRIGSBY.)

The downstairs in that place as I recall was a plumbing [60] shop or hardware, of some kind. I have lived here since 1925 this time. I have known the reputation of the place since September,

(Testimony of Winn Goddard.)

1928. I did not altogether get my knowledge of the reputation of that place from talking to officers of the law, federal officers. I heard it discussed, I do not recall by whom. I could not name the persons I heard discuss it.

The Government here rested its case.

Mr. GRIGSBY.—At this time the defendants move the Court to direct a verdict of not guilty on each count of the indictment, for the reason that there is not sufficient evidence to go to the jury to support a conviction on either count. The two counts are, if the Court please, possession and maintaining a nuisance. Of course, neither of the offenses can be committed without the knowledge of the defendants; that is, they couldn't be responsible for any liquor being kept there they didn't know about, and there is not a scintilla of evidence in this case imputing any knowledge of the existence of liquor in the Archway Rooms at the time of the indictment or any other time, on the part of either of the defendants. The evidence won't support a conviction. If there should be a conviction in this case, on the evidence introduced, it would be the duty of the Court to set it aside. If there is any evidence tending to show that knowledge I don't know what it is. I can't call it to mind.

The COURT.—The motion is overruled. Exception allowed.

DEFENDANTS' CASE.

TESTIMONY OF MRS. MILDRED BART, FOR  
DEFENDANTS.

Mrs. MILDRED BART, called as a witness on behalf of defendants, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. GRIGSBY.)

My name is Mrs. Mildred Bart. I know the defendant Steve Stanworth and his wife, Mrs. Steve Stanworth. Have known them for three years. I know the store kept by Mr. Stanworth, and the rooms above it known as the Archway Rooms. I have had some connection with those rooms, since July, in the way of making the beds, wiping up the floor, helping Mrs. Stanworth with the rooms. From July up till now. [61] I have lived in Ju-neau five years in May. I am married. My husband works for the Thomas Hardware. I have been assisting Mrs. Stanworth in taking care of the rooming-house. I know the room known as room eleven.

I recall the occasion of Mr. Stanworth being arrested about the 25th of October last. I was in room eleven the Saturday before it was raided. I made the beds, dusted and wiped the floor, dusted the woodwork. On the Saturday prior to *to* this arrest, before I made it up, its condition as to having been occupied was, that it had been occupied,

(Testimony of Mrs. Mildred Bart.)

and blankets thrown over the bed like some fellows will do when they go out and spreads (?) his bed up. I made up the bed. Put fresh linen on it. I have never seen anyone going in there. I went in and cleaned the room, put on linen, and that was all. I had been in there every Saturday before that at the direction of Mrs. Stanworth.

If the room was unoccupied and had no tenant, I wouldn't ordinarily in the course of my work, make it up if didn't need changing. I did not notice any liquor in the room at the time I made it up. There was none inside. There were two trunks in the room. I know there is a stove in that room. It was not rusty, just from being overheated. The color was from heating. They had a radiator in the room; I don't see how the stove could be rusted. The steam was on. The room was warm. I do not attend to the dishes; I just go in and make the bed and do the dusting but I never attend to the dishes. Just clean the room generally.

Cross-examination.

(By Mr. FOLTA.)

I have nothing to do with the renting of the room. I made up room eleven every Saturday from the time I was employed there. From July on. I don't know whether it was occupied then. I don't know the roomers at all. I have nothing to do with the records. I don't remember when it was I first noticed these two trunks in that room. I don't really know whether it was the first time I made it

(Testimony of Mrs. Mildred Bart.)

up. I never paid any attention, and so far back and all I don't keep track of what goes on in the rooms. I don't know when I saw them there for the first time. They were in there on the Saturday before the arrest, and making the bed and putting linen on it I took off the bedclothes and had to put them on the trunk. I don't remember exactly when the trunks were there. [62] They weren't there when he moved there. I remember they were there, the week before it was raided. They were there before that, but I don't remember which day they were in there. I didn't look at the record; I don't remember when the fellow moved in, or when I first did see the trunks. I remember I saw them before the arrest because they were there. I don't know how long before. I did not see that jug the (Witness is shown exhibit.) Never saw it there, nor anything like it. I did not examine the cabinet or space underneath the wash-stand. I had no business in there, that is his personal things, I don't know what might have been in there. I have never seen these trunks opened, no. I did not see any cartons such as these around here. There was not such a thing as a carton on the bed a week before or at any time when I made up the room. I never saw a hose of this kind or two of them, nor anything like that, nor any whiskey flasks, corks or funnel. When I made it up I left towels there. I left some the Saturday before the raid. I left two bath towels and a hand towel. Did not notice any clothing hanging in the place. Never looked be-

(Testimony of Mrs. Mildred Bart.)

hind the closet. If there had been any clothing hanging in plain sight I would have seen it. I didn't see any. I never paid any attention; I made the beds, swept and dusted and went out. I came any time she needed me; if there was only one or two rooms rented she did it herself. I came only when she called me, and if I was down town and wasn't busy, then I helped her. Any day she called me I went. If the place was full she generally let me know.

She would call me every time I went down there. When I went down there like this Saturday before the arrest I would stay about three hours. I never saw anybody going in or out of room eleven. When I wanted to go into a room, for instance like eleven, I got in with a key. Mrs. Stanworth would give me the key. The door to eleven had a Yale lock on it. The steam was always turned on. On the Saturday before the arrest there was no fire in the stove. I remember that because it was warm and they had some kindling laying there and the kindling was in the box, and it was in July and all along they had no fire when I was there; they had no fire only when cooking; there was a coffee-pot on the stove and tea-kettle. I remember that, and no fire there. [63] I judge that by the kindling. The kindling was not there all through July; he always had the wood-box full of kindling. I did not see it full of kindling every time I was in there. Sometimes it was full of coal, sometimes kindling; not always. I noticed pots on the stove although



(Testimony of Mrs. Mildred Bart.)

I had nothing to do with them, and that it was a coal stove. I generally stuck the trash in the stove. I didn't notice anything on the wall. Generally noticed magazines. No smoking articles. Never saw anybody go in there while I was there. Have no way of knowing who occupied that room except what Mrs. Stanworth might have told me.

Redirect Examination.

(By Mr. GRIGSBY.)

There was not a sink in that room. There was a razor on the dresser. I saw it the last time I was in there. There were no smoking articles. There was a razor and talcum powder. The Saturday before this raid, yes sir. I never saw any liquor in that house. Absolutely not. Nor any indications of it. I have been in every room in the house. I went there every day, if necessary, but when there were only two or three rented I went once in a while. They were rented most of the time, practically every day in the winter, and I was down town almost every afternoon.

Recross-examination.

(By Mr. FOLTA.)

If I happened to drop in I worked every afternoon. Every time she needed me I worked there; if she didn't and I was downtown I helped her just the same. When I was downtown and dropped in and helped her I got paid for it, absolutely. It didn't make any difference when I dropped in.

(Testimony of Mrs. Mildred Bart.)

She paid me for what I did. She gives me the keys and whatever are ready to make up I make up, and the ones who are out she tells me and I make them. On the days I was there she certainly makes up some of the rooms, but if it is busy, she has to answer telephone and the store bell when Mr. Stanworth is out. It doesn't make any difference about the division of the work; we go right along together. Certainly what one of us would see the other would see. I never saw any liquor nor evidence of it nor any bottles, not even in her living [64] quarters. Never saw a sack of bottles that she claimed to pick up in the rooms. Never saw a bottle at all.

#### Redirect Examination.

(By Mr. GRIGSBY.)

The keys were on a ring or chain. The key to eleven would be on the same as the rest.

#### Recross-examination.

(By Mr. FOLTA.)

I remember it was on that ring the same as the rest. I certainly do remember every key on there. I do not remember on the week before Oct. 25th what other rooms I made up. I didn't keep track of them. I remember room eleven because I always go in there with Mrs. Stanworth. I have always been in the kitchen, always in the back kitchen. I remember being in room eleven with Mrs. Stanworth. I don't remember any other room I

(Testimony of Mrs. Mildred Bart.)

was in on that particular day, but I do remember eleven. In fact I do the scrubbing. I remember I was in there that particular day because I have to wipe up the floor. I do have to wipe the other rooms. Yes, sir, that is the thing I remember it by. I had to wipe the floor of room eleven. If there is some vacant I don't wipe the floors of the vacant rooms.

#### TESTIMONY OF CHARLES E. NAGEL, FOR DEFENDANTS.

My name is Charles E. Nagel. I am the Finance Clerk, Public Survey Office. I have been in Alaska a little over twenty-nine years. I am acquainted with Steve Stanworth and Mrs. Steve Stanworth, the defendants in this case. I have known Mr. Stanworth about four years and Mrs. Stanworth about two, since they have been in business down there. I know their general reputation as law-abiding citizens. It has always been good. I am not familiar with the Archway Rooms, operated by Mr. and Mrs. Stanworth. I never heard anything about the general reputation of the Archway building as a place where liquor is stored, until this case came up. Never heard anything in that connection. Never heard it was a place where liquor was stored for the purpose of sale or barter, not since Stanworth has been there; it used to have that reputation years ago.

(Testimony of Charles E. Nagel.)

Cross-examination. [65]

(By Mr. FOLTA.)

I haven't heard it discussed at all. Not the building, no.

TESTIMONY OF J. F. MILLER, FOR DEFENDANTS.

J. F. MILLER, called as a witness on behalf of defendants, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. HURLEY.)

My name is J. F. Miller. My business is banking. The Behrends Bank. I am vice-president. I have lived in Alaska twenty years. I know Steve Stanworth and Mrs. Steve Stanworth, the defendants in this case. I have known them probably rather intimately for the past five years, since they have been on this side. I know their general reputation as being law-abiding citizens. It is very good. I have some acquaintance with the Archway Building, occupied by Mr. and Mrs. Stanworth as a rooming-house and plumbing shop and second-hand store. I never heard such a thing charged against the building as being a place where liquor is stored for barter or sale.

Cross-examination.

(By Mr. FOLTA.)

On account of Mr. Clark's estate, the rent is paid there, and I know more or less about the building.

(Testimony of J. F. Miller.)

I did not hear the reputation of the place discussed. The association I mentioned with the defendants is a business association. I come in contact with them in a business way.

Redirect Examination.

(By Mr. HURLEY.)

The rent is paid in the bank and I have a little knowledge of the building on that account. That is all.

Recross-examination.

(By Mr. FOLTA.)

The rent is paid in the bank, the bank doesn't go down there and collect it.

TESTIMONY OF GABRIEL PAUL, FOR DEFENDANTS.

GABRIEL PAUL, a witness on behalf of defendants, being first duly sworn, testified as follows: [66]

(By Mr. HURLEY.)

My name is Gabriel Paul. I am in the grocery business. I have been in Alaska twenty-four years. I am acquainted with Mr. and Mrs. Steve Stanworth, defendants in this case. I have known them, pretty hard to tell, since we were kids. I know their general reputation as being law-abiding citizens. It is very, very clear and good so far as I know. I know the building they occupy, known as the Archway Building, that they use for a rooming-house

(Testimony of Gabriel Paul.)

upstairs and a plumbing shop downstairs. I never heard that the building had the general reputation of being a place *where is* stored for barter or sale.

Cross-examination.

(By Mr. FOLTA.)

I never heard any discussion about the Archway Building until here lately, until they were arrested. None before that at all.

The defendants are not customers of mine. Sometimes they drop in and get a pint or quart of milk, but not regular customers.

#### TESTIMONY OF CASH COLE, FOR DEFENDANTS.

CASH COLE, a witness called on behalf of defendants, being first duly sworn, testified as follows:

(By Mr. HURLEY.)

My name is Cash Cole. I live in Juneau. Have lived in Alaska thirty-four years. I am Auditor of the Territory. I am acquainted with Mr. and Mrs. Stanworth, the defendants in this case. I have known them, I guess in the neighborhood of twenty years. I would say their general reputation is that of being law-abiding citizens.

They are as far as I know law-abiding citizens. I am acquainted with the building they occupy on Front St. called the Archway Rooms where they conduct a rooming-house upstairs and a second-hand store downstairs. It has not, to my knowl-

(Testimony of Cash Cole.)

edge, the general reputation of being a place where intoxicating liquor is kept for sale or barter.

Cross-examination.

(By Mr. FOLTA.)

I never have heard any discussion of its reputation. I form the basis of my answer from not having heard any discussion of it. I say they are law-abiding citizens so far as I know. I made that general. I don't know whether the defendant is a citizen. I base that [67] statement on the fact of good business relations I have had with Mr. Stanworth for the past five years he has worked for me. On my business transactions with him. I have been in his place.

TESTIMONY OF E. F. CASHEL, FOR  
DEFENDANTS.

E. F. CASHEL, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. GRIGSBY.)

My name is E. F. Cashel. I know the defendants, Steve Stanworth and Mrs. Steve Stanworth. He is my brother-in-law. I was in the Archway Rooms the latter part of October or first part of November.

I seen the arrest of Steve Stanworth in the paper, and some time after that along the 1st of November I was in the Archway Rooms. Mrs. Stanworth

(Testimony of E. F. Cashel.)

asked me to examine a stove in room eleven with a view to ascertaining its condition as to being rusty. I did examine it; it wasn't rusty though. It was from the heat. It wasn't what you would call rusty; the blacking was taken off, and from the heat, it wasn't rusty. It wasn't exactly black. It showed the effects of intense heating.

Cross-examination.

(By Mr. FOLTA.)

I made this examination about the 1st of November. I came over here seeing I had no other place to go to see my brother-in-law; I dropped in here. Mrs. Stanworth asked me to examine the stove. I don't know why. She just wanted to see what it looked like. I looked it over thoroughly. I didn't look underneath, just on top of the stove. She didn't ask me. I remember particularly now the top of the stove but I don't know the condition of any other part of the stove. I don't know why I looked at the top of the stove further than that she asked me to examine the stove. Mrs. Stanworth took me to room eleven. I saw a coffee pot and tea pot in the room. I didn't see any clothes. It wasn't occupied that night. It might have been occupied. I couldn't say whether it might have been occupied several days before I made this examination. I don't know what the condition [68] the top of that stove was in on October 25th. I wasn't here. It couldn't have been rusty, because it would show rust. It didn't look as if it had been wiped off. It might have been.



TESTIMONY OF MRS. STEVE STANWORTH,  
FOR DEFENDANTS.

Mrs. STEVE STANWORTH, one of the defendants, called as a witness in behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. GRIGSBY.)

My name is Anne Stanworth. I am one of the defendants in this case. Mr. Stanworth is my husband. I live down on Front Street in the Archway Rooms. I have lived in Alaska five years this time. I lived in Douglas before for twelve years. I lived in the upstairs of the Archway Building, in the front quarters. There is eleven rooms in that building for rent besides my own quarters. We have been occupying that two years in February. Have been running it as a rooming-house two years in March. After we took possession I furnished it all up, put in new furniture, and new linoleums, and new everything in fact. Repapered it twice. I manage the rooming-house. Mr. Stanworth has absolutely nothing to do with the rooms. I take care of the rooms. I recall the occasion of the search that was made detailed here by the officers.

I was there the afternoon they came. They came between two and two-thirty, I guess it was. I was sweeping off the veranda in front of the store, downstairs. In fact, I didn't see anyone coming in the building and the only time I knew anyone

(Testimony of Mrs. Steve Stanworth.)

was around regarding the law was when Mr. Feero called I was wanted, that they had a search-warrant for the place and called me into the store. He says, "Better go upstairs," he says. "The law is upstairs; better go upstairs," so I went upstairs; my husband came shortly after me. I had opened up the linen closet. Mr. Garster directed me to open up the linen closet. At that time no warrant had been served on me, or on anybody. I unlocked it. I had the keys in my apron pocket. I had the keys to the entire rooming-house in one bunch. I opened up the linen closet at Mr. Garster's request. I opened up four sleeping-rooms at the direction of Mr. Garster and Mr. Brown. They were in already and forced me to open [69] that door, this door and the next door. I unlocked them. I unlocked four rooms and the linen locker only. I didn't keep on unlocking rooms because Mr. Stanworth demanded the bunch of keys to find out what the trouble was and about wanting to see the search-warrant first. That was after I opened up four rooms. Mr. Stanworth said he wanted to know what it was all about; they claimed they had a search-warrant; he said, "You will have to show me the search-warrant before you go any further."

Q. What did you do then?

A. In the meantime my husband said he wanted to see the search-warrant and Mr. Chidester says—

Mr. FOLTA.—Object to any hearsay testimony. Let those who took part testify to that.

Q. You were there?

(Testimony of Mrs. Steve Stanworth.)

A. You heard this?      A. Yes.

The COURT.—What was the question? (Question at line 12 read.)

Mr. GRIGSBY.—(Arguing.) What occurred then? If the Court please, the narrative of what occurred up there on the part of the officers was all to show resistance or something amounting to guilty conduct, and I have a right to go into everything she saw there.

Mr. FOLTA.—Except hearsay.

Mr. GRIGSBY.—We are not trying to prove anything by hearsay, but we have a right to prove what was said.

Mr. FOLTA.—We object to what was said because it is irrebuttable.

Mr. GRIGSBY.—If the Court please, the gentleman don't seem to understand what hearsay evidence is. The fact that somebody had a conversation is not hearsay. When you try to prove a substantive fact by what somebody told you, that is hearsay. Here is a search, evidenced by the conduct—

The COURT.—But the search isn't in question.

Mr. GRIGSBY.—We are not questioning the validity of the search now, but questioning the insinuation of the prosecution that there was any guilty action there, any conduct from which an inference of guilty can be presumed; any undue resistance or anything to prevent a search [70] other than he could rightly do. They testified to

all the conversations. The prosecution put in evidence the conversations here.

The COURT.—They put in evidence statements of the defendants in the nature of admissions, by what they said; I don't know of course; what they said might be material along that line and might not.

Mr. GRIGSBY.—Your Honor just made that statement: "Defendants said in the nature of admissions." I consider that prejudicial and ask your Honor to ask the jury to disregard it, because I don't recall any admissions.

The COURT.—Of course the jury will disregard any conversation had between counsel, but the statements of defendants of course are admissible as admissions and on that basis they were admitted.

Mr. GRIGSBY.—I except to the remarks of the Court on the ground that there is no evidence of any kind on the part of the defendants.

The COURT.—The Court does not intend "admissions" as a technical term, but as a term in its ordinary sense. I am using the term in its technical sense and it is on that basis the conversation of the defendants may be admitted. Of course the jury are instructed to disregard what conversation is had between counsel in regard to this matter. If you want the jury to withdraw, they can.

Mr. GRIGSBY.—No. But my question is what occurred then. If a witness for the prosecution told anything that occurred, on direct examination, we have certainly a right to go into the same thing.

The COURT.—I will ask the jury to withdraw and remain within call of the bailiff. You can tell me what this conversation was and how it is material. (The jury retired.)

Mr. GRIGSBY.—If the Court please, the evidence for the prosecution shows that certain liquor was found in room eleven. They also attempted to show Mr. Stanworth very strongly objected to this search; to show his objections they showed certain conversations and actions, and said he ran up and down the hall protesting, and protested again when he got to room eleven. Everything was gone into. Here is a witness present at the search, and I simply want her to tell her account. [71]

The COURT.—How is what they said going to be material on that question? What is her answer?

Mr. GRIGSBY.—I *couls* ask leading questions, as to what occurred after Mr. Stanworth said he wanted to see the search-warrant. I want to know who delivered it to him. They said Garster. I expect to prove by the witness.

The COURT.—You expect to open the door to everything that was said?

Mr. GRIGSBY.—It is already open to everything that was said.

The COURT.—The witness is instructed not to testify to what was said by the officers. If you have anything material on this question it will be a different matter, but until it is shown it is material, the Court will not permit this evidence.

(Testimony of Mrs. Steve Stanworth.)

Mr. GRIGSBY.—Your Honor already admitted it.

Mr. FOLTA.—I challenge that statement.

The COURT.—Anything which will cast light on it, all right. If you have it, show it. The jury is gone.

Mr. GRIGSBY.—I asked what occurred; it is not a leading question.

The COURT.—She is instructed not to state what the officers said in regard to this search.

Mr. FOLTA.—I object to anything she said because it is a self-serving declaration. If there was any testimony showing either defendant made admissions, then she might have a right to deny it, but she has no right to testify to self-serving declarations or hearsay, because I couldn't rebut it.

The COURT.—No, she cannot testify to that unless it is a specific question or something brought out in the case in chief as to what she said.

Mr. GRIGSBY.—Then I must ask leading questions.

The COURT.—That is the ruling.

Mr. GRIGSBY.—I take exception to the Court's ruling.

The COURT.—Exception noted, call the jury.

The WITNESS.—(Continuing.) Up to the time I had unlocked the linen closet and four rooms no search-warrant had been served. After I had unlocked these four rooms Mr. Stanworth came upstairs and took the keys from me. I was down opposite the fourth room. And then he demanded

(Testimony of Mrs. Steve Stanworth.)

to see the [72] search-warrant. The warrant was served by Mr. Chidester, right in front of room four. My husband searched them to see if they had liquor. He searched Chidester and Brown and Garster. I didn't see him search Garster but I saw him search Brown and Chidester. He searched Chidester in the hallway. I saw him search Brown. When my husband wanted to stop Mr. Brown said if he didn't open the doors he was going to kick them in and put handcuffs on him and put him where he belonged.

The COURT.—Mrs. Stanworth, you are directed not to state what was said, what was done; that was the instruction of the Court to you when the jury was withdrawn. The jury is instructed to disregard that remark.

The WITNESS.—My husband had the keys and opened the rest of the doors while I watched Mr. Garster when he come into my place. I went with him. I was not present when room eleven was searched. When I went into the kitchen with Mr. Garster my husband had the key to room eleven. I was not in there when he unlocked it. I did not hear a conversation in front of eleven. It is quite a long ways down the hallway. I don't know what took place down there. It is the last room down the hallway. There is a door at the end of the hall going into a back hall off of which room eleven is. Room eleven was occupied at that time. I rented it the 1st of October. The party moved in the second. That room as distinguished from the

(Testimony of Mrs. Steve Stanworth.)

rest of the rooms was a room you could do light housekeeping in. It was rented as a housekeeping room when I rented it. When that room was rented that way I had occasion to visit it once a week. The rooms I rented as sleeping rooms I made up every day. I made up room eleven every Saturday.

I was in there the Saturday before Mr. Stanworth was arrested. As the lady testified, she was helping; I gave her the linen. She cleaned up the room. I went into the room on that day. I noticed the condition of the bed as to having been slept in. It had been used recently. I know the linens were mussed up. I had been in the Saturday before that and made it up at that time. We put clean linen on once a week. Clean linen was put on every Saturday after the 1st of October. I wasn't in there until between the Saturday prior to the arrest and the Saturday prior to that; after they raided it and the bed was all mussed up. But when I made [73] it up on the Saturday prior to that it showed evidence of having been slept in, and the Saturday still prior to that I had made it up. There was a stove in the room. In the first place it was a second-hand stove, a little bit red from excessive heat. It wasn't rusty; it couldn't be; there was steam heat in the room. When I was in there the Saturday before the arrest I saw no evidence of liquor being there. I didn't notice any smell of liquor. I left two towels there. Bath towel and face towel. I do that every Saturday. It was a second-hand



(Testimony of Mrs. Steve Stanworth.)

stove when I put it in the room. This man paid rent for one month when he rented the room. I gave him a key to the room. You cannot get into that room or hallway adjoining the room except from in front, up the front stairs. You can't get up the back way because it leads through the store and is our private place. That is kept locked, absolutely. I did not see the trunks moved in there. Certainly they could have been moved in without my knowledge; I am busy around and can't pay attention to who comes in and goes out. I see lots of baggage. I had no knowledge of any liquor of any kind being kept in room eleven on October 25th or any other time. It was absolutely without my knowledge.

Cross-examination.

(By Mr. FOLTA.)

When I was in there every Saturday before the arrest, I gave the linen to the lady. I remember giving it to her. Yes, I always take—I have to take them to the door for her. I was in the room and gave her the linen. I handed it to her. Certainly. I always go to the linen closet myself. I hand out the linen. I go to the linen closet and get the linen and give them to her. I saw this fellow after he rented the room a couple or three times. I saw him in the hallway. I saw him come upstairs one time and saw him back in the hallway the next time. Yes, I saw him come up the stairs once and once from the back stairs. The back hall is never locked. There is a door between but never

(Testimony of Mrs. Steve Stanworth.)

locked. Anybody can go the back way, sure, because there is a toilet in back and one in front.

Q. Then you can go into the store?

A. No, because the door at the foot of the stairs is locked. I imagine it would be locked this day the officers were there. I did not find out anything about this man [74] since that time. I did not try, because I did not see him any more.

Question: You were charged with the possession of this liquor in what you claim was his room, and yet you didn't make any effort to find out where he is or anything about him?

WITNESS.—(Continuing.) I don't know where he is. I didn't try to find out. I could, yes. Did not make any inquiry when he came there the 1st of October, I was in my kitchen when I first saw him. He came looking for a room. He came in the evening. He said he was looking for a room. I told him I had no sleeping rooms right now, but I had a housekeeping room. That is different from any other room because you can do light housekeeping in it. Dishes and a stove. There is no other place. I told him I had no sleeping rooms, but I had a light housekeeping room. All the other rooms were occupied. I did not have any others at that time. He consented to take it. It was two or three days before I saw him again. I saw him the next day, he moved. He took it the first and moved in the second. I saw him coming up the stairs, the front hallway. Not with anybody. Had nothing in his hand, had no conversation with

(Testimony of Mrs. Steve Stanworth.)

him nor he with me. Just said, "How do you do?"

That was all.

Question: You didn't see him again for how long?

WITNESS.—(Continuing.) I saw him a few days after that. I think I saw him about three times to my knowledge. The first night he simply inquired about the room and agreed to take the room. That is all the first night. The second night I passed him upstairs while I was going down. We just spoke to each other and passed by. Several days elapsed before I saw him again. I didn't know anything about him at that time. I don't remember anything about him afterwards. He paid me on the second of October, in the evening.

Q. Then you had seen him twice; when you said awhile ago you hadn't seen him for several days after the second of October?

A. I said he paid me the second.

Q. You said that now. But you said a while ago the first time was the evening of the first; the second time you saw him when you passed him going downstairs and didn't see him for two or three days.

A. He paid me— [75]

Q. Sure, but a little while ago you didn't remember that.

A. I saw him the first and second.

Q. When I asked if you saw him when was the next time you saw him after the morning of the second you said two or three days, didn't you?

A. Yes, sir.

Q. You know the register shows that he paid on the second?

A. Yes.

(Testimony of Mrs. Steve Stanworth.)

Q. And so that is why you say now he paid on the second, you happened to think of that, didn't you?

A. He took a room on the first and moved in on the second.

Q. Yes, but you forgot about it. That is all you ever learned about him; never saw him since, nobody ever came to call on him? A. No.

Q. Ever find mail in his room?

A. No. I did not ever inquire at the postoffice whether he had a postoffice box. I was outside the store when the officers came there that day and somebody told me they had a search-warrant for the place. I went in the store. Mr. Stanworth was in the store. He was not summoned; he was in the store. Mr. Feero called me and said, "Better go upstairs, the law is upstairs." I went upstairs; my husband comes up afterwards. I didn't see the officers come into the building. I didn't see anybody until Mr. Feero called me in. They got in the side door coming upstairs. Probably my back was turned. The first of the officers I [76] saw was Mr. Feero. I did not see anybody going upstairs or hear anybody. I went in with Mr. Feero. He called me in. He told they had a search-warrant for the place. He told me, "Better go upstairs." I went. I went upstairs, and Mr. Garster he says, "Open this door." He goes into the bathroom first, and says, "Open this door," here, linen closet door, which I did. I had the keys in my pocket. I did not ask why he wanted the door open.

(Testimony of Mrs. Steve Stanworth.)

I did not know he had a search-warrant. Mr. Feero did not tell me he had a search-warrant. I know Mr. Garster when I see him, sure. I do not know the other officers. I hadn't heard a word about the search-warrant up to that time. They were insisting "Open the door," and the next door, and about that time my husband comes upstairs. They were so abrupt, "Open this door," "Open that door," next door. They wanted me to open three doors at once, which I did, first one and then another. I had the keys on me. About that time my husband came up. He demanded to get the keys from me, and wanted to know what the trouble was, and he told him they had a search-warrant for the place. They were into some of the rooms before my husband came upstairs. I couldn't say for sure exactly how long they had been in the rooms but they had been in some rooms. Before I went upstairs I saw my husband in the store. He was busy putting new mattresses in the store. A fellow works for us was in the store. I did not hear Mr. Feero call him. I didn't call him. I don't know of ever telling anybody that these officers searched three rooms before Mr. Stanworth came up. After Mr. Stanworth came up he wanted to see the search-warrant. He knew the law was upstairs and finally he came up to know what it was all about. My husband asked what it was all about. Mr. Chidester says, "I have got a search-warrant for this place." He says, "Let me see it." Mr. Chidester served the search-warrant. I saw him do that. Mr. Chidester says,

(Testimony of Mrs. Steve Stanworth.)

“Bill’s got it.” He says, “No, you have got it.” Mr. Garster pulls a piece of paper out of his pocket and says, “No, Mr. Chidester has it,” so my husband went and got it from Mr. Chidester. I heard Mr. Garster and Mr. Chidester testify here but they were mistaken about that search-warrant. Sure it was served. No one said anything about a search-warrant till my husband came in. I can’t tell how long it was between that time and the time [77] room eleven was searched, because some of the rooms they weren’t very particular about and others they were particular. Some time elapsed; it wasn’t right away. During that time my husband searched the officers.

Mr. Chidester was standing in the hallway when he was searched by Mr. Stanworth. He was talking to him while he was searching him. Standing face to face. Mr. Chidester said he wanted to know who that was who pulled the back of his coat, he said, “I am Mr. Chidester.” My husband said, “I want to see if you have anything on you.” From what Mr. Stanworth said Mr. Feero and Mr. Garster didn’t mind being searched. But Mr. Brown and Mr. Chidester didn’t want to be searched. My husband felt him. My husband didn’t have a search-warrant to search them. I don’t know when was the first night when this man Anderson slept in room eleven, because as I said I changed the linen and went in to clean the room and didn’t go in till the following Saturday. The first time he came up the linen was clean. I showed him the room. I

(Testimony of Mrs. Steve Stanworth.)

couldn't recall what day of the week the 1st of October, I think Monday or Tuesday.

And so I didn't wait a week to change the linen then, because I have a habit of cleaning all the linen up and sending it out in one lot, Monday, and I went in Saturday and changed it. I do the regular cleaning up on Saturday. Yes, sir. The Saturday before the arrest the room had been cleaned up. The lady who does the work for me cleaned it up. I went in and inspected it afterwards. I found it was swept out. I was in that evening after the officers found this stuff in it. It wasn't dirty. I charged this man eighteen dollars a month for this room. I charge twenty dollars a month for the other rooms. Two dollars less for the housekeeping room. The other rooms I make up every day. I supply them with linens, towels and kindling wood and they get their own coal, but there is always enough kindling there for them. He paid me a twenty dollar bill. Did not use a check. I have no way of checking up on this man. I don't know anybody else who can check up on him. I have never heard of him since. The first time he wore a dark suit, black raincoat, black hat, sometimes wore a cap. Kind of a heavy set fellow. He spoke good English. I asked him, I said, "If you take this room, the light housekeeping room, the agreement is I go in once a week and give [78] you clean linen," and he said the light housekeeping room was all right. I said, "Do you work at

(Testimony of Mrs. Steve Stanworth.)

the mine?" and he said no, he was a fisherman. There was no further conversation to trace where he worked. I was there all day of the second, part of the time, upstairs and downstairs, I was. I did not see the trunks brought in. Did not see any trunks brought in that day. I saw the trunks the first Saturday after he went in. I did not see that jug there, nor any caryons, corks, bottles, hose nor gin.

I saw the coat, but I didn't look to see what was in it. First saw the coat the following Saturday I went in after I rented it. I saw the shoes. I didn't have a hole in the bottom that I know of. I didn't look however. Saw no other pair of shoes there. Nobody has come around there since inquiring about what was left in the room. Everything has just simply been abandoned, yes. I have seen a cup sitting there, a teaspoon, one of the times I went in there. One Saturday. I don't know which Saturday it was. I have been in there when there had been a fire in there, because I noticed the heat, from the stove, and not from the radiator. I guess probably he had been burning rubbish or something I don't know. I know there was heat in the stove. I did not notice any papers on the bed at any time. At that time all my rooms were rented; yes.



(Testimony of Mrs. Steve Stanworth.)

Redirect Examination.

(By Mr. GRIGSBY.)

All of them are rented now. I am going to have one vacancy this afternoon.

(By Mr. GRIGSBY.)

I heard Mr. Keller testify this morning. I had some trouble with Mr. Keller. I made complaints against him to the school board.

Q. What for?

Mr. FOLTA.—Object to that—to what board she made complaint and what for. The fact that she made complaint might be proper, but not to whom she made it.

The COURT.—Objection sustained, exception allowed.

## TESTIMONY OF STEVE STANWORTH, FOR DEFENDANTS.

STEVE STANWORTH, one of the defendants, called as a witness in behalf of the defendants, testified as follows: [79]

(By Mr. GRIGSBY.)

My name is Steve Stanworth. I have lived in Alaska in the neighborhood of seventeen years, fifteen to seventeen years. I am lessee of the Archway Rooms and building. Have been occupying that building in the neighborhood of two years. I use the downstairs for plumbing, heating, sheet

(Testimony of Steve Stanworth.)

metal, second-hand stores, furniture, new stoves and furniture, general repair work.

Q. How large a stock have you there in value?

A. I judge in the neighborhood of five thousand dollars.

Mr. FOLTA.—Object to that as immaterial.

Mr. GRIGSBY.—We have a right to show the nature of the business there; it is charged with being a liquor nuisance; we have a right to show anything legitimate.

The COURT.—It wouldn't be anything to prove—

Mr. GRIGSBY.—If it is a *bona fide* store and stock of five thousand dollars value, it repudiates the idea of being used as a bootlegging joint, more than if he had a few articles there as a blind.

Mr. FOLTA.—It is a self-serving declaration.

Mr. GRIGSBY.—The fact of how much stock?

Mr. FOLTA.—Calls for an opinion.

Q. Do you know the value of the stock?

Mr. FOLTA.—Object to the question as not tending to prove any of the issues.

The COURT.—Sustained.

Mr. GRIGSBY.—If the Court please he don't want any evidence in there of anything except corks and bottles. We want to show he has a five thousand dollar stock.

WITNESS. — (Continuing.) I do a general plumbing business. I was engaged in that business on Oct. 25th. The upstairs is used for a rooming-house.

(Testimony of Steve Stanworth.)

Q. What substantial jobs have you done recently?

Mr. FOLTA.—Object to what he has done recently.

Q. Prior to the 25th of October?

A. I have done a good many.

The COURT.—Objection sustained.

The WITNESS.—Mrs. Stanworth runs the [80] rooming-house. I have nothing whatever to do with the conduct of the rooming-house. I know room eleven upstairs. I remember the occasion of my arrest of Oct. 25th last. I had been bringing in a load of new mattresses and was disposing of them in a proper place on a rack in the store when my attention was called to the fact the officers were in the building to make a raid. Deputy Feero called my attention to that. I proceeded to Mr. Feero, and he said the officers were upstairs and I better go up and see what they were doing; so I searched Billy Feero, felt his pockets, and proceeded upstairs.

I got to the top of the stairway and see the officers, some in the hallway and some, I presume, in rooms, that was not in sight. I went up to Mr. Brown and asked what it was all about. He said, "We are searching the rooms." I went to Mrs. Stanworth and demanded the keys and she gave me the keys and I said, "Mr. Brown, what's this all about?" He said, "We are searching the rooms." I said, "Have you got a search-warrant?" He said, "Yes, we have." I said, "Let's see the search-warrant."

(Testimony of Steve Stanworth.)

Mr. FOLTA.—I object to any further such testimony as hearsay.

Mr. GRIGSBY.—It is not hearsay.

The COURT.—If you can show it is material.

Mr. GRIGSBY.—It is just as material as what was done; it is part of what was done.

The COURT.—It may be and may not be.

Mr. GRIGSBY.—It is part of the *res gestae*; it isn't hearsay; I am not trying to prove anything by the conversation, but simply the conversation itself.

The COURT.—I will not admit this kind of testimony unless it is shown to be material.

Mr. GRIGSBY.—I can't anticipate the answer. Your Honor permitted the District Attorney to detail the conversation.

The COURT.—If you objected to the ruling brought out by the District Attorney, then was the time to make it. As to this matter, this man will not give conversation unless it is material.

Q. Did you hear the testimony of the officers with reference to the [81] conversation with you about that search-warrant?

Mr. FOLTA.—We object to the question.

The COURT.—Overruled.

A. I did. I did not have the conversation they told about.

Q. What conversation did you have?

Mr. FOLTA.—Object to that question; it comes

(Testimony of Steve Stanworth.)

within the rule of self-serving declarations, hearsay.

Mr. GRIGSBY.—On that theory I couldn't call him at all.

Mr. FOLTA.—He can deny the conversation, but he cannot go on with hearsay.

The COURT.—I think they can be contradicted on that. The conversation you have in mind he denies should be brought out. He answered he did not have that conversation. As to what he said with regard to it the objection is sustained.

WITNESS.—(Continuing.) At the time I came upstairs some of the rooms had been opened by Mrs. Stanworth; she was the only one in possession of the keys. I took the keys from her when I come up. I asked Mr. Brown what it was all about, asked Mr. Brown for the search-warrant. He did not give me the search-warrant. He said Mr. Chidester had the search-warrant. I asked Mr. Chidester—

Mr. FOLTA.—Object to this conversation again on the same ground.

The COURT.—Of course this testimony about the search-warrant, I don't see where it is material at all. What he says about that is certainly not material. You are instructed not to repeat that conversation Mr. Stanworth; that is the instruction of the Court.

Mr. GRIGSBY.—We take an exception to the ruling of the Court.

(Testimony of Steve Stanworth.)

WITNESS.—(Continuing.) I finally got the search-warrant from Mr. Chidester. He was in the hallway when he gave it to me, some little distance from the bathroom. I searched Mr. Chidester in the hallway where I got the search-warrant from him. I searched Mr. Brown; he was standing next to Mr. Chidester in the hallway. I searched Mr. Garster. I searched them all.

Q. What was your object in doing that?

Mr. FOLTA.—Object to what his object was.

The COURT.—Objection sustained. Exception allowed. [82]

WITNESS.—(Continuing.) Yes, after they gave me the search-warrant I made some objections to the legality of it.

Q. What did you say to them about that?

Mr. FOLTA.—Object to that on the same ground as before; it is bound to be self-serving and hearsay.

Mr. GRIGSBY.—They told it.

Mr. FOLTA.—When that matter ought to be called to his attention and nothing else.

The COURT.—This affair—this evidence about the search-warrant, in the first place, isn't material at all.

Mr. GRIGSBY.—That is what I thought, but they attempted to show he was resisting the search-warrant on a flimsy pretext.

The COURT.—I won't let you bring out immaterial matter on the theory that it might be admissible. Objection sustained.

(Testimony of Steve Stanworth.)

WITNESS.—(Continuing.) I heard Mr. Chidester state that I objected to the search-warrant because it wasn't signed. That was correct. I didn't make any other objection to it that I remember. After you got the search-warrant and made objection to it that it wasn't signed what did they tell you?

Mr. FOLTA.—Object as hearsay.

The COURT.—Objection sustained.

Mr. GRIGSBY.—Exception.

WITNESS.—(Continuing.) I made no further protest. I opened doors right and left, as I came to them. I kept on doing that till I came to room eleven, before it was demanded of me. I made no protest whatever against opening room eleven. I did not have to go back to the front of the house to get the key to room eleven. The keys is on that ring, together, all numbered from one to eleven. I opened the door, pushed it open, and Mr. Brown walked in. I followed him in. No other officers went in with us two. I heard Mr. Brown state that when we went in there was a jug which contained liquor on the stand. The jug was in the commode. Brown took it out. I don't remember that I could smell liquor when I went in the room. I don't remember ever smelling any. I hadn't been in that room since I put the stove in. I heard the officers testify the stove was rusty. It was not. [83] The stove was burnt from overheating, brown-red from overheat like a stove will after— When I went

(Testimony of Steve Stanworth.)

into the room that night the clothing was spread out on the bed, the bedclothing; it looked as if it had been occupied; there was some articles of clothing, dishes, a kettle on the stove and some kind of a pot. I knew at that time the room was tenanted. Mrs. Stanworth told me all the rooms was full. Some man by the name of Anderson was occupying it. I only knew what she told me; she told me after the raid. I didn't know who occupied it previous to the raid. I do not know J. Anderson. I never did rent any rooms. I had nothing whatever to do with this liquor that has been introduced in evidence being in that room. I had no knowledge of liquor being kept in any part of those premises. I presume that these trunks could have been moved into that room without my knowing it; there have been a good many taken in and out without my knowing it. I did not ever keep any liquor downstairs. I heard the testimony of the officers with reference to finding all the bottles downstairs. I handle bottles. Buy and sell them. Yes, corks, also, rubber tubing. I presume they are handled generally in other stores in Juneau. There is other use for tubing than siphoning whiskey out of kegs into bottles. I have often had men come in to buy tubing to siphon gasoline from the gas-tanks of their cars, and many other purposes. I sell much of that tubing for those purposes.



(Testimony of Steve Stanworth.)

Cross-examination.

(By Mr. FOLTA.)

I don't know whether there was any gasoline in eleven. I don't know whether that hose in eleven was used for gasoline. I never had anything to do with the rooms in that place. Of course I would pass the time of day with the tenants in that place. I never inspected the rooms only when I had them *Paperd*. I have enough to do to attend to my own business. I had nothing to do with them.

Q. Then what did you do to see there was no liquor on the place?     A. What did I do?

Q. Yes.     A. I didn't do anything—

Q. What did you do to prevent liquor from getting into the house? [84]

A. If I saw you or anyone else—

Q. What did you do to prevent liquor getting into that place before October 25th?

A. I never had to do anything.

Q. You didn't make any inspection of the place?

A. No. (Continuing.) Yes, I searched all the officers there. I didn't have a search-warrant. I did have some ground whatever to make a search. You may call them legal or otherwise. I did not consult anybody about the search-warrant [85] law. I undertook to do what I thought I should do. I think everything I did was legal. Even to the search. I say this search-warrant wasn't signed. It was typewritten out.

The COURT.—What is all this testimony about

(Testimony of Steve Stanworth.)

the legality of the search-warrant—whether it was signed or not.

Mr. GRIGSBY.—Object as immaterial.

The COURT.—Objection sustained.

(Argument.)

The COURT.—That testimony about the search-warrant is not material in the case; the search-warrant is presumed to be legal as far as the jury is concerned.

Mr. GRIGSBY.—We except to the last remark of the Court.

The COURT.—Exception allowed.

WITNESS.—(Continuing.) I never saw this man Anderson either before October 25 or since. I have never done anything to find out who he is or where he was. I had business in the District Attorney's office about October 25. I don't remember any odor of liquor in that room when I opened the door. I would have remembered that if I had smelled liquor in the room. My sense of smell is normal. If there had been a smell of liquor there I might have smelled it and might not. If other people with more or less keen sense of smell smelled it I possibly would and possibly not. Anyhow I didn't. If I had I would remember it. I wouldn't allow any liquor in the place if I saw anyone taking it in. Besides the business I have enumerated I do not do a pawn business. I have never done any business of that kind. I did not do business of that kind with Fred Smith. I loaned

(Testimony of Steve Stanworth.)

him eight dollars and he left a suitcase for security. I had a man by the name of Manthy working for me in the plumbing shop. He is still working for me. I have had several different employees before Manthy over a period of two years. One did not quit because of liquor handling that I know of. [86] I never handled liquor; never heard any such story. He never said any such thing to me. I wouldn't stand for any liquor in the house. I heard the testimony about the trunk on the back stairway. I know where that came from. I put it there; there was nothing in it when I put it there and nothing in it when Mr. Chidester found it. That was not true evidence. Yes, that was like a good deal of the rest of his testimony. No, the rest of the officers did not all testify untruthfully.

#### Redirect Examination.

(By Mr. GRIGSBY.)

Mr. Feero testified very truthfully; Mr. Garster truthfully; Mr. Chidester was about ninety per cent off and Mr. Brown was about eighty per cent off.

WHEREUPON the defendants rested. Thereafter, after argument of the case, the Court read his instructions to the jury, after which the following occurred within the hearing of the Court and the presence of the jury.

Mr. GRIGSBY.—We except to that part of instruction 13, which says, “Errors in law are corrected by rights of appeal and otherwise.”

The COURT.—Very well; exception noted.

Mr. GRIGSBY.—(The bailiffs having been sworn.) We would like to have the jury have an opportunity to inspect the premises.

The COURT.—I don't believe I will order a view in this case at this time.

Mr. GRIGSBY.—Take an exception. [87]

And thereafter, to wit, on January 7th, 1930, the jury retired to deliberate on their verdict.

And thereafter, to wit, on the 8th day of January, 1930, the jury returned a verdict finding each of the defendants guilty of the crime of possession of intoxicating liquor, as charged in count one of the indictment, to which said verdict the defendants then and there excepted on the ground that the same was contrary to law, contrary to the evidence, and not supported by the evidence, which exception was then and there allowed by the Court.

BE IT FURTHER REMEMBERED that thereafter, to wit, on the 13th day of January, 1930, judgment and sentence was pronounced against each of the defendants, whereby the defendant Mrs. Steve Stanworth was sentenced to pay a fine of one thousand dollars, and the defendant Steve Stanworth was sentenced to eight months imprisonment in the Federal jail, to which sentences defendants objected on the ground that said sentences were pronounced before the time had expired within which a motion for a new trial and motion for arrest of judgment might be filed, which objection was over-

ruled by the Court, to which ruling the defendants excepted and the exception was allowed.

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And thereafter, to wit, on the 14th of January, 1930, the defendants duly and regularly filed their motion for a new trial, which is as follows:

[Title of Court and Cause.]

### MOTION FOR NEW TRIAL.

Come now the defendants in the above-entitled action and move the Court that the verdict heretofore rendered on the 8th day [88] of January, 1930, in said action, be set aside and a new trial granted, on the following grounds:

First: Insufficiency of the evidence to justify the verdict and that it is against law, in that there was no sufficient evidence to go to the jury on which to base a verdict of guilty.

Second: Errors at law occurring at the trial and excepted to by the defendant, as follows:

1. The Court erred in refusing to instruct the jury upon motion of the defendant, to return a verdict of not guilty as to each of the defendants, which motion was made on the ground that there was insufficient evidence to go to the jury to warrant a conviction.

2. The Court erred in overruling the objection of the defendants, to the admission of any evidence procured by the execution of a search-warrant, it not having been proven by the Government that said search-warrant was issued upon probable cause.

3. The Court erred in overruling the motion of defendants to strike out certain testimony of the witness T. L. Chidester, relative to information derived by said Chidester from certain moonshiners, to the effect that Steve Stanworth made stills for the said moonshiners.

With respect to the last error assigned, the witness Chidester, having testified that the reputation of the Archway rooms and second-hand store was bad, as being a place where intoxicating liquor was kept, etc., was asked on cross-examination the following question:

(By Mr. GRIGSBY.)

Mr. Chidester, can you name any person that talked to you about the reputation of this place or its character, who wasn't talking confidentially?

Answer: A couple of moonshiners told me that Stanworth made their still.

Whereupon defendants moved to strike out said answer as not responsive and having no tendency to prove general reputation for the keeping of intoxicating liquor.

R. G. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Jan. 14, 1930.

G. W. FOLTA,  
Asst. United States Attorney. [89]

And on said 14th day of January, 1930, the defendants duly and regularly filed their motion in arrest of judgment, which motion is as follows:

[Title of Court and Cause.]

MOTION IN ARREST OF JUDGMENT.

Come now the defendants in the above-entitled action and move the Court that no judgment be rendered upon the verdict of guilty heretofore on the 8th day of January, 1930, rendered in the above-entitled action, and that the judgment heretofore rendered be set aside.

This motion is based on the following grounds:

*This motion is based on the following grounds:*

That the indictment in said cause does not state *fact* sufficient to constitute a crime, for the reason that the Alaska Bone Dry Law, or a violation of which the defendants were convicted, has been repealed by the National Prohibition Act, in so far as the offense of possession of intoxicating liquor is concerned, that being the offense of which defendants were convicted.

This motion is based upon all the records and files in said action.

R. C. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Jan. 14, 1930.

G. W. FOLTA.

G. W. FOLTA,

Asst. United States Attorney. [90]

And thereafter, to wit, on the 1st day of February, 1930, the Court overruled said motion for a new trial, and overruled said motion in arrest

of judgment, to each of which said rulings the defendants excepted and which exceptions were allowed by the Court.

And now, on this 27th day of February, and within the time allowed therefor, the defendants duly and regularly present their bill of exceptions to the Court.

R. C. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Feb. 27th, 1930.

G. W. FOLTA,  
Asst. United States Attorney.

And the same having been examined by the Court and the counsel on both sides, and the Court having found the same to be correct and to speak the truth in every particular, to contain a full and complete record reduced to narrative form of all the proceedings had in this cause, and a statement of all the material evidence adduced in court, signs, settles and allows this bill of exceptions.

#### CERTIFICATE OF JUDGE TO BILL OF EXCEPTIONS.

And I, the undersigned, the Judge before whom this cause was tried, do hereby certify that the above and foregoing bill of exceptions, so signed, settled and allowed by me, speaks the truth in every particular, contains all the material evidence adduced at the trial of this cause, and an accurate and complete record of all proceedings had, and that the same is in all respects full, accurate and



complete, AND I HEREBY ORDER that this bill of exceptions be and the same is hereby made a part of the record in this cause.

Done this 18th day of March, 1930.

JUSTIN W. HARDING,  
District Judge. [91]

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[Title of Court and Cause.]

### MOTION IN ARREST OF JUDGMENT.

Come now the defendants in the above-entitled action and move the Court that no judgment be rendered upon the verdict of guilty, heretofore on the 8th day of January, 1930, rendered in the above-entitled action, and that the judgment heretofore rendered be set aside.

This motion is based on the following grounds:

That the indictment in said cause does not state facts sufficient to constitute a crime, for the reason that the Alaska Bone Dry Law, for a violation of which the defendants were convicted, has been repealed by the National Prohibition Act, in so far as the offense of possession of intoxicating liquor is concerned, that being the offense of which defendants were convicted.

This motion is based upon all the records and files in said action.

R. C. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Jan. 14th, 1930.

G. W. FOLTA,

Asst. United States Attorney.

Filed Jan. 14, 1930. [92]

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[Title of Court and Cause.]

ORDER OVERRULING MOTION FOR NEW  
TRIAL.

This matter came before the Court upon the motion of the defendants for a new trial; argument on said motion was had on January 25, 1930, and the motion submitted to the Court; and the law and the premises being fully considered and understood by the Court,—

IT IS ORDERED that said motion be, and the same hereby is, overruled.

Done in open court this first day of February, 1930.

JUSTIN W. HARDING,

District Judge.

Entered Court Journal No. 5, page 148.

Filed Feb. 1, 1930. [93]

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[Title of Cause.]

MINUTES OF COURT—FEBRUARY 1, 1930—  
ORDER GRANTING FURTHER STAY OF  
EXECUTION.

Now, at this time the Court rendered an opinion in this case on a motion for a new trial in which

the motion for a new trial is overruled. Whereupon, upon motion of the attorney for the defendants, a further stay of execution, as to both defendants, is granted for a period of two weeks from this date over the objections of the United States Attorney.

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[Title of Cause.]

MINUTES OF COURT—FEBRUARY 3, 1930—  
ORDER OVERRULING MOTION IN ARREST OF JUDGMENT.

Now, at this time Geo. B. Grigsby, attorney for the defendant, asks of the Court whether or not the motion in arrest of judgment was overruled at the time the Court overruled the motion for a new trial. Whereupon the Court stated that both motions were overruled. Counsel for the defendants asked for an exception as to the ruling of the Court on both motions and an exception is allowed. [94]

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[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Come now the defendants, Steve Stanworth and Mrs. Steve Stanworth, appellants herein, and assign the following errors made by the trial court, as the errors upon which said defendants will rely in their prosecution of the appeal in the above-entitled cause.

I.

The Court erred in overruling the objection of the defendants to certain testimony of the witness

T. L. Chidester, a witness for the Government, as follows:

The witness T. L. Chidester, having testified that as a Federal Prohibition Agent, acting under a search-warrant, he in company with other officials made a search of the premises known as the Archway Rooms, located in Juneau, Alaska, by authority of a search-warrant, was asked the following question:

Question (by Mr. FOLTA.)—Just describe what you did under that search-warrant.

Mr. GRIGSBY.—If the Court please, we object to any further evidence as to what he did under a search-warrant, he having testified he had a search-warrant, until it has been shown to the Court it is a valid search-warrant, based [95] on sufficient evidence.

The COURT.—Objection overruled.

Whereupon the witness T. L. Chidester testified that he found, in the Archway Rooms, the premises under the control of the defendants, the following articles, which were admitted in evidence, to wit: a jug of whiskey, a bucket half full of whiskey, two trunks, one containing forty-eight pints of moonshine whiskey, the other three pints of whiskey and one quart of gin, in a coat hanging on a nail a half pint of moonshine whiskey, some empty cartons, several empty bottles, rubber hose, sack, a funnel or two, sack of corks,—all found in Room 11 of the Archway Rooms, a rooming-house conducted by the defendants.

II.

The Court erred in overruling the motion of the defendants to strike out all of the evidence of the witness T. L. Chidester regarding the result of the search he testified about, said motion being based on the grounds that it was not shown that said search was made pursuant to a valid search-warrant.

III.

The Court erred in sustaining the objection of the Government to certain questions propounded to the witness T. L. Chidester on cross-examination, as follows:

The witness T. L. Chidester, having testified with reference to the downstairs, or lower floor portion of the Archway Building, in control of the defendants as follows:

“That downstairs has the reputation of being a plumbing shop and also the reputation of a still. Well, it is a plumbing shop and it is a bootleg supply shop. By junk [96] I mean second-hand stuff. I saw those bottles. I don't remember as I noticed any new stoves.”

Q. (Mr. GRIGSBY.) See any new beds?

Mr. FOLTA.—Object as immaterial and part of defendants' case.

Mr. GRIGSBY.—It shows the interest of the witness. If there is a large stock of new goods there and this man can't see anything but bootlegging supplies it shows interest.

The COURT.—Objection sustained.

Q. You are very careful not to mention anything that would tend to show a legitimate

business being carried on there, aren't you, Mr. Chidester?

Mr. FOLTA.—Object as argumentative.

The COURT.—Objection sustained.

#### IV.

The Court erred in sustaining the objection of the Government to certain testimony and refusing to strike the same, of the witness T. L. Chidester, as follows:

The witness, T. L. Chidester, having testified that the Archway Rooms and the Archway Plumbing Shop and Second-hand Store all together have the reputation of being a bootlegging joint and a place where stills are manufactured and where whiskey is cached by bootleggers, the following occurred:

Mr. CHIDESTER.—I think it is general reputation when a large number of people complain of a place as a bootlegging joint. There were a large number of people complained to me of its being a bootlegging joint. I don't care to name them. [97]

Mr. GRIGSBY.—We insist.

The COURT.—I don't think he has to give information that comes to him confidentially.

Mr. GRIGSBY.—Any other witness is subject to cross-examination about general reputation.

The COURT.—This is specific information from different people about this place, and he isn't required to give who they were. It is in the nature of confidential information.

Q. (Mr. GRIGSBY.) Can you, Mr. Chidester, name any person that talked to you about this place, the reputation of this place or its character, who wasn't talking confidentially?

A. Yes.

Q. Who? A. Oh, George Baggin.

Q. Who is George Baggin?

A. Used to be a prohibition agent.

Q. Anybody that didn't used to be a prohibition agent, that didn't speak to you in confidence?

A. Mr. Keller. I think he is superintendent of schools.

Q. What did he tell you about the place?

A. Oh, he said it was a bootlegging joint. I heard him say that to Mr. Folta.

Q. Where?

Mr. FOLTA.—Object to that.

The COURT.—Objection sustained.

Q. Was he giving Mr. Folta some confidential information?

Mr. FOLTA.—I object, that is going too far.

The COURT.—Sustained. [98]

Q. (Mr. GRIGSBY.) Well, anyone else?

A. Yes.

Q. Who?

A. A couple of moonshiners told me that Stanworth made their still.

(Laughter by jury and audience.)

Q. A couple of moonshiners imparted the information to you that Mr. Stanworth made their still? A. Yes, sir.

Q. Who were they?

A. I don't care to expose these moonshiners; they came in and plead guilty and showed their good faith. I don't want to tell who they were.

Q. Did they get off pretty light for telling you Mr. Stanworth made their still?

Mr. FOLTA.—Object.

The COURT.—Sustained.

Mr. GRIGSBY.—Is everything this witness knows confidential?

The COURT.—That last sounds confidential.

Mr. GRIGSBY.—He has gone so far as to say that moonshiners told him this. He opened up the subject. We have a right to know who they were.

The COURT.—The National Prohibition Act specifically specifies an officer does not have to give confidential information; information he would get from moonshiners is certainly confidential.

Mr. GRIGSBY.—We move to strike it out as having no tendency to prove general reputation.

The COURT.—You brought it out.

Mr. GRIGSBY.—I am cross-examining on the general [99] reputation of the place. If it is founded on confidential information which cannot be made public, then it cannot become general reputation, and I move to strike it all out.

The COURT.—Motion denied. Exception allowed.

And thereupon, after the conclusion of the



testimony of the witness T. L. Chidester, the defendants moved to strike out the testimony of the witness Chidester to the effect that a couple of moonshiners told him (Chidester) that Mr. Stanworth made their still, on the ground that said answer was not responsive, which motion was overruled by the Court and exception allowed.

V.

The Court erred in sustaining the objection of the Government to the following question propounded to the witness, T. L. Chidester, with reference to the Archway Rooming-house, as follows:

Cross-examination by Mr. GRIGSBY.

Q. It had the appearance of being a decent rooming-house, didn't it, with the exception of this one room?

Mr. FOLTA.—Object, as calling for a conclusion, and immaterial.

Mr. GRIGSBY.—This is a nuisance charge, if the Court please, part of the *res gestae* of the search.

Mr. FOLTA.—It is a part of defendants' case.

The COURT.—If you want to make him your own witness on that why call him. Objection sustained and exception allowed. [100]

VI.

The Court erred in overruling the objection of the defendants to certain testimony C. V. Brown, a witness for the Government, who testified that on the 25th of October, 1929, he, together with Prohi-

bition Agent T. L. Chidester and other officials, made a search of the Archway Rooms and Plumbing Shop, property under the control of the defendants, under the authority of a search-warrant. Whereupon the following occurred :

Q. (Mr. FOLTA.) Do you recognize those articles, Mr. Brown, Government's Exhibits 1 to 5? A. Yes.

Q. Mr. GRIGSBY.—We object to any further testimony as to the results of any search made there, for the reason the witness has disclosed by his testimony they were acting under a search-warrant, and it hasn't been shown they were acting under a valid search-warrant.

Whereupon the Court overruled the objection, and allowed an exception.

And thereupon the witness C. V. Brown testified that as a result of his search he, in company with Mr. Chidester and others, found in the Archway Rooming-house, in Room 11, the exhibits 1 to 5, consisting of two trunks, one containing 48 pints of moonshine whiskey, the other containing three pints of moonshine whiskey and one quart of gin, one gallon jug full of moonshine whiskey, and one bottle half full of moonshine whiskey, corks, funnel, siphon hose, some cartons and wrappers.

## VII.

The Court erred in sustaining the objection of the [101] Government to certain questions propounded to the defendant Mrs. Steve Stanworth on her direct examination, as follows:

The witness, Mrs. Steve Stanworth, defendant, having testified with reference to the circumstances of the search of the Archway Rooms, being the same search with reference to which the witness T. L. Chidester, C. V. Brown and other Government witnesses had testified, and said witnesses having testified to certain conversations between said officers and the defendant, Steve Stanworth, the witness, Mr. Stanworth, testifies as follows:

“Mr. Stanworth said he wanted to know what it was all about; they claimed they had a search-warrant, he said, ‘You will have to show me the search-warrant before you go any further.’ ”

Q. (Mr. GRIGSBY.) What did you do then?

A. In the meantime my husband said he wanted to see the search-warrant, and Mr. Chidester says—

Mr. FOLTA.—Object to any hearsay testimony. Let those who took part testify to that.

Q. You were there? You heard this?

A. Yes.

The COURT.—Objection sustained.

### VIII.

The Court erred in certain statements prejudicial to the defendants, made in the course of the examination of the witness and defendant, Mrs. Steve Stanworth, in connection with the testimony ruled out, and to the admission of which the objection of the Government was sustained, as set forth in the

last previous assignment of error, to wit, Number VII, as follows: [102]

During the argument as to the admissibility of the testimony of Mrs. Steve Stanworth with reference to conversation between T. L. Chidester and the other Government officers, and the defendant Steve Stanworth, the following occurred:

Mr. GRIGSBY.—We are not questioning the validity of the search now, but questioning the insinuation of the prosecution that there was any guilty action there, any conduct from which an inference of guilt can be presumed, any undue resistance or anything to prevent a search, other than he could rightly do. They testified to all the conversation. The prosecution put in evidence the conversations here.

The COURT.—They put in evidence statements of the defendants in the nature of admissions, by what they said; I don't know, of course; what they said might be material along that line and might not.

Mr. GRIGSBY.—Your Honor just made the statement, "Defendants said in the nature of admissions." I consider that prejudicial, and ask your Honor to ask the jury to disregard it, because I don't recall any admissions.

The COURT.—Of course the jury will disregard any conversation had between counsel, but the statements of defendants, of course, are admissible as admissions, and on that basis they were admitted.

Mr. GRIGSBY.—I except to the remarks of the Court on the ground that there is no evidence of any admissions on the part of the defendants.

IX.

The Court erred in instructing the jury in Instruction Number 13, as follows: [103]

“Errors in law are corrected by rights of appeal and otherwise.”

X.

The Court erred in overruling defendants’ motion in arrest of judgment, which said motion was in words and figures as follows:

“In the District Court for the Territory of Alaska,  
Division Number One, at Juneau.

UNITED STATES OF AMERICA

vs.

STEVE STANWORTH and Mrs. STEVE STANWORTH,

Defendants.

MOTION IN ARREST OF JUDGMENT.

Come now the defendants in the above-entitled action and move the Court that no judgment be rendered upon the verdict of guilty heretofore on the 8th day of January, 1930, rendered in the above-entitled action, and that the judgment heretofore rendered be set aside.

This motion is based on the following grounds:

That the indictment in said cause does not state facts sufficient to constitute a crime, for the reason that the Alaska Bone Dry Law, for a violation of which the defendants were convicted, has been repealed by the National Prohibition Act, in so far as the offense of possession of intoxicating liquor is concerned, that being the offense of which defendants were convicted.

This motion is based upon all the records and files in said action.

R. C. HURLEY,  
GEORGE GRIGSBY,  
Attorneys for Defendants.

Service admitted Jan. 14, 1930.

G. W. FOLTS,  
Asst. United States Attorney." [104]

## XI.

The Court erred in overruling defendants' exception and objection to the verdict of the jury whereby the defendants were found guilty of the crime of possession of intoxicating liquor; said objection being based upon the ground that the same was contrary to law, contrary to the evidence and not supported by the evidence.

## XII.

The Court erred in overruling the objection of the defendants to the judgment and sentence pronounced against the defendants, on the ground that said sentences were pronounced before the time had expired within which a motion for a new trial and motion for arrest of judgment might be filed.

XIII.

The Court erred in overruling the motion of defendants made at the conclusion of the Government's case, that the Court direct a verdict of not guilty on each count of the indictment; said motion being based on the ground that there was not sufficient evidence to go to the jury to sustain a conviction on either count.

GEORGE GRIGSBY,  
Attorney for Defendants.

Service admitted this 18th day of March, 1930.

G. W. FOLTA,  
Asst. U. S. Attorney.

Filed Mar. 18, 1930. [105]

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[Title of Court and Cause.]

PETITION FOR AN APPEAL AND ORDER  
ALLOWING SAME.

Steve Stanworth and Mrs. Steve Stanworth, defendants in the above-entitled action, and appellants therein, feeling themselves aggrieved by the verdict of the jury and the judgment rendered therein on the 13th day of January, 1930, come now by their attorney, George B. Grigsby, Esq., and petition the Court for an order allowing said defendants to prosecute an appeal from said judgment, and the whole and every part thereof, to the United States Circuit Court of Appeals of the Ninth Circuit, under and in accordance with the laws of the United States in that behalf made and

provided and that a citation may issue and a transcript of record be sent to the Appellate Court; also that an order be made fixing the amount of bond which the defendants shall give and furnish upon said appeal, and that upon the giving of such security all further proceedings in the above-entitled court be suspended and stayed until the determination of said appeal by the United States Circuit Court of Appeals for the Ninth Circuit.

GEORGE GRIGSBY,  
Attorney for Defendants. [106]

And now, to wit, on the 18th day of March, 1930, IT IS ORDERED, that the appeal herein be allowed as above prayed for, and all proceedings herein be suspended upon condition that the defendant Steve Stanworth be admitted *to in* the sum of one thousand five hundred dollars (\$1500.00), and that the defendant, Mrs. Steve Stanworth, furnish proper supersedeas bond in the sum of one thousand two hundred fifty dollars (\$1,250.00).

JUSTIN W. HARDING,  
District Judge.

Service of the within petition admitted this 18th day of March, 1930.

G. W. FOLTA,  
Asst. U. S. Attorney.

Filed Mar. 18, 1930.

Entered Court Journal No. 5, page 438. [107]



[Title of Court and Cause.]

CITATION ON APPEAL.

The President of the United States of America, to the United States of America and HOWARD D. STABLER, United States Attorney for the First Division of the Territory of Alaska, GREETING:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit to be held at the City of San Francisco, in the State of California, within thirty days from and after this date, pursuant to an appeal filed in the Clerk's office of the District Court for the District of Alaska, Division Number One, in the above-entitled cause, wherein Steve Stanworth and Mrs. Steve Stanworth are appellants and the United States of America is appellee, to show cause, if any there be, why the judgment in the petition for an appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

WITNESS, the Honorable CHARLES EVANS HUGHES, Chief Justice of the United States Supreme Court of the United States of America, this 18th day of March, A. D. 1930, and of the Inde-

130 *Steve Stanworth and Mrs. Steve Stanworth*  
pendence of the United States the one hundred and  
fifty-third.

JUSTIN W. HARDING,  
Judge of the District Court, Territory of Alaska,  
First Division.

[Seal]                      Attest: JOHN H. DUNN,  
Clerk of the Dist. Court.

Filed Mar. 18, 1930. [108]

Service of the foregoing citation hereby ad-  
mitted this 18th day of March, 1930.

G. W. FOLTA,  
Asst. United States Attorney. [109]

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[Title of Court and Cause.]

SUPERSEDEAS BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS,  
That we, Mrs. Steve Stanworth, of Juneau, Alaska,  
the above-named defendant, as principal, and Mose  
Merriweather and J. S. MacKinnon, of Juneau,  
Alaska, as sureties, are held and firmly bound  
unto the United States of America, in the sum of  
twelve hundred and fifty dollars (\$1250.00), for  
which payment, well and truly to be made, we bind  
ourselves, our heirs, executors and administrators,  
jointly and severally firmly by these presents.

Signed and sealed at Juneau, Alaska, March 18th,  
1930.

THE CONDITION of the above obligation is  
such, THAT WHEREAS the above-named princi-  
pal and defendant, Mrs. Steve Stanworth, is about

to take an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the judgment in the above-entitled court, rendered and entered in said court on January 13th, 1930, whereby and by the terms of which said defendant was sentenced to pay a fine of one thousand dollars (\$1,000.00) and to be committed to the Federal jail in default of payment of said fine, not exceeding the period of one day for each two dollars (\$2.00) of said fine, said defendant having theretofore been convicted of possession of intoxicating liquor in violation of the Alaska Bone Dry Act,— [110]

NOW, THEREFORE, if the said defendant, Mrs. Steve Stanworth, shall prosecute said appeal to effect, and answer all damages if she shall fail to make good her plea, then this obligation shall be void; otherwise to remain in full force and effect.

MRS. STEVE STANWORTH,  
Principal.

MOSE MERRIWEATHER,  
Surety.

J. S. MACKINNON,  
Surety.

The United States of America,  
Territory of Alaska,—ss.

Mose Merriweather and J. S. MacKinnon, being first duly sworn each for himself and not one for the other deposes and says: That he is a resident of the Territory of Alaska; that he is not an attorney or counsellor at law, marshal, clerk of any court, nor other officer of any court; that he is

worth the sum of one thousand two hundred and fifty dollars (\$1,250) over and above all just debts and liabilities and exclusive of property exempt from execution.

MOSE MERRIWEATHER.

J. S. MacKINNON.

Subscribed and sworn to before me this 18th day of March, 1930.

[Seal]

A. W. FOX.

Approved to operate a supersedeas.

JUSTIN W. HARDING,

District Judge.

Filed Mar. 18, 1930. [111]

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[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To John H. Dunn, Clerk of the District Court for the First Division, Territory of Alaska:

Please prepare certified copies for transmission to the Circuit Court of Appeals in connection with your return on the citation herein, as follows:

1. Indictment.
2. Instructions to jury.
3. Verdicts.
4. Motion for new trial.
5. Judgment and sentence.
6. Bill of exceptions.
7. Motion in arrest of judgment.
8. Order overruling motion for new trial.

9. Order overruling motion in arrest of judgment.
10. Assignment of errors.
11. Petition for appeal and order allowing appeal.
12. Citation.
13. Supersedeas bond on appeal.
14. This praecipe.

Dated at Juneau, Alaska, April 3d, 1930.

GEORGE GRIGSBY,  
Attorney for Defendants.

Service accepted April 3d, 1930.

G. W. FOLTA,  
United States Attorney.

Filed Apr. 2, 1930. [112]

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[Title of Court.]

CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.

United States of America,  
District of Alaska,  
Division No. 1,—ss.

I, John H. Dunn, Clerk of the District Court for the District of Alaska, Division No. 1, hereby certify that the foregoing and hereto attached 112 pages of typewritten matter, numbered from 1 to 112, both inclusive, constitute a full, true, and complete copy, and the whole thereof, of the record, as per the praecipe of appellants on file herein and made a part hereof, in a cause wherein Steve Stanworth and Mrs. Steve Stanworth are the appellants,

134 *Steve Stanworth and Mrs. Steve Stanworth*  
and the United States of America is Appellee, No. 2023-B., as the same appears of record and on file in my office, and that said record is by virtue of a petition for appeal and citation issued in this cause and the return thereof in accordance therewith.

I do further certify that this transcript was prepared by me in my office, and that the cost of preparation, examination and certificate, amounting to Forty-four and 85/100 Dollars (\$44.85), has been paid to me by counsel for appellant.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the above-entitled court this 4th day of April, 1930.

[Seal]

JOHN H. DUNN,  
Clerk.

By \_\_\_\_\_,  
Deputy. [113]

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[Endorsed]: No. 6123. United States Circuit Court of Appeals for the Ninth Circuit. Steve Stanworth and Mrs. Steve Stanworth, Appellants, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Alaska, Division No. 1.

Filed April 14, 1930.

PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.